



COLLEGE OF CHIROPODISTS OF ONTARIO

Regulating Chiropodists and Podiatrists in Ontario

Information for Witnesses at Discipline Committee Hearings

This guide provides information about what to expect when you appear as a witness before a panel of the Discipline Committee. Your participation at the hearing will help the College fulfill its public protection mandate, and your cooperation is greatly appreciated. A witness is a person who has some first-hand knowledge or information about an issue or matter and who agrees to answer questions truthfully about a particular issue or matter.

General Information

What is the College of Chiropodists of Ontario?

The College of Chiropodists of Ontario (COCOO) is the governing body for approximately 775 chiropodists and podiatrists in Ontario. The College's mandate is to regulate chiropodists and podiatrists in the public interest. This means that the College works to ensure chiropodists and podiatrists meet acceptable standards of practice to protect the public.

Why is there going to be a hearing?

After the Inquiries, Complaints and Reports Committee conducts an investigation, it may refer the matter to the College's Discipline Committee if it believes a member has committed professional misconduct or is incompetent. The Discipline Committee will then hold a hearing into the concerns about the member's practice.

What is a hearing?

A hearing is a formal legal process. A panel of the Discipline Committee listens to evidence about a member's practice and decides whether the member has committed professional misconduct or is incompetent, and if so, it orders an appropriate penalty. A panel is usually made up of three to five members of the Discipline Committee — at least one member of the public and two professional members.

Discipline hearings at the College are generally open to the public and media. In some cases, however, a panel may order that all or part of a hearing be closed to the public or that there be a publication ban on the name of a person/persons involved in the hearing. This may be done to protect the safety or privacy of a patient or witness involved in the hearing.

Where are hearings held?

Most COCOO hearings take place at Victory Verbatim, which is located at 222 Bay St., suites 900 & 1710, Toronto, ON M5K 1H6. However, a hearing may also take place electronically via Zoom or another videoconferencing platform.

Why am I being called to testify?

The purpose of the discipline hearing is to provide the panel of the Discipline Committee with all the information it needs to make a decision about the member's practice. Witnesses are called by the College because they have information the College believes will assist the panel.

Before the Hearing

How can I prepare for the hearing?

If the College obtained information during an investigation, such as during an interview, please review that material carefully before the hearing.

The College's lawyer will help prepare you for the hearing. If you have any questions about the process, please contact the Manager, Professional Conduct and Hearings, or ask the College's lawyer.

If you have any particular needs, such as transportation or the need for an interpreter, or if you have a health-related concern that might affect your ability to testify at a hearing, please notify the Manager, Professional Conduct and Hearings as soon as possible.

Who will pay my expenses?

Accommodation: The College will arrange and pay for hotel accommodation if you require an overnight stay. Please contact the Manager, Professional Conduct and Hearings to discuss your needs.

Travel: The College will reimburse you for travel expenses, including economy air, train and/or bus fare, car mileage (40 cents per km) and other travel-related expenses.

Attendance Allowance: You will be paid \$50 per day to cover your attendance at the College, and to pay for your meals and incidental expenses. This is in accordance with the attendance fee for the Ontario Superior Court of Justice.

Loss of Wages and Other Expenses: The College does not reimburse witnesses for lost wages; however, special circumstances will be considered. If you have concerns about this or any other expense, please contact the Manager, Professional Conduct and Hearings.

Please make sure that you complete and submit your expense claim form to the Manager, Professional Conduct and Hearings.

Your expenses will be reimbursed approximately one month after the College receives your complete expense claim form.

What should I wear?

Discipline hearings are formal legal proceedings. The Discipline Committee panel and other participants will be wearing business attire.

Can I be summoned to attend the hearing?

A summons is a legal document that requires a person to attend a hearing. The *Statutory Powers Procedure Act* gives the Discipline Committee the power to summon witnesses. A summons is generally issued to the College's witnesses.

The Hearing

What will happen when I testify?

Start of Testimony

When you are called to testify, you will be escorted into the hearing room and shown where to sit. The panel chairperson will introduce him or herself. The member who is the subject of the hearing may also be in the room.

Affirmation

The panel chairperson will ask you to affirm (a non-religious promise to tell the truth) that your testimony will be truthful. He or she will also ask you to speak loudly, clearly, and slowly in order for the court reporter to record your testimony accurately.

Examination-in-chief

The College lawyer (also known as the prosecutor) will ask you a series of questions. The College lawyer will review these questions with you before your testimony. The purpose of the questions is to get information you have that will be of assistance to the panel. The first questions will identify you and show your connection to the case. For example, if you know about an incident because it happened in your workplace, you may be asked about your work history. The questioning will also cover the specific information you have about the incident(s) at issue in the hearing.

Cross-examination

Once the College lawyer is finished asking questions, the member or his/her lawyer (also known as the defence counsel) may ask you questions, which will be more direct and wide-ranging than those asked in the examination-in-chief. The role of the defence council is to clarify information, test your memory and see if there are any inconsistencies in your testimony.

Re-examination

After the cross-examination is completed, the College's lawyer may have some further questions to help clarify matters that arose during the cross-examination. The panel may also ask questions.

Using notes or documents during the hearing

If you made notes about an incident, bring them with you to the hearing. You may need the notes when you testify. The College's lawyer will discuss the use of your notes with you.

If you cannot locate an exhibit, record or document that is being referred to during your testimony, let the College's lawyer know, and the Manager, Professional Conduct and Hearings will help you locate it.

General Information

There will be scheduled breaks in the morning, afternoon and at lunch time during the hearing. If you need a break during your testimony, let the panel chair know and she/he will arrange for a short break.

If your testimony is interrupted by a break, or you are unable to finish your testimony by the end of the day, the panel chairperson will caution you not to discuss your testimony with others.

There might be times during your testimony when the lawyers need to argue a legal point before the panel. You will be excused from the hearing if this occurs.

Once your testimony is finished, you may observe the rest of the hearing. Let the College lawyer know if you wish to do so. In some circumstances, you may be asked not to observe the hearing if you need to testify further.

Following your testimony

Occasionally, a witness is asked to return to answer further questions. If you are recalled, the Manager, Professional Conduct and Hearing or the prosecutor will contact you to make the necessary arrangements.

After the Hearing

What happens after the hearing?

Following the hearing, the discipline panel will deliberate and determine, based on the evidence it heard, whether or not the member has committed professional misconduct and/or is incompetent. The deliberation process can be quite lengthy as the panel must carefully review all the evidence. If the panel finds that the member has committed professional misconduct and/or is incompetent, the College will schedule additional hearing dates to hear submissions about penalty.

At the end of the hearing and the deliberation process, the panel will write its decision and the reasons for the decision. If you are a complainant, you will receive a copy of the decision and reasons.

How can I find out the result of the hearing?

Information about the outcome of the hearing is available from of the following sources:

- the College's public register contains the results of hearings in cases where there has been a finding of professional misconduct and/or incompetence and certain penalties have been ordered;
- the College's website contains the result of Discipline Committee hearing: <https://cocco.on.ca/discipline-decision-summaries/>; and
- COCOO Discipline Committee decisions are also posted on www.canlii.org.

What penalties can result from a hearing?

The panel can order that one or more of the following penalties be imposed:

- revocation of the member's certificate of registration;
- suspension of the member's certificate of registration;
- terms, conditions or limitations on the member's certificate of registration;
- a fine; and/or

- requiring the member to appear before the panel to be reprimanded.