

CRIMINAL CONVICTIONS

Policy

Original Policy Passed: June 15, 2015
Policy in effect as of: June 15, 2015
Last Reviewed or Revised: January 1, 2017

Introduction

The following policy relates to the Massage Therapy Association of Manitoba requirements for membership regarding criminal convictions and to outline the Board of Director's discretion regarding applicants who have criminal convictions.

In the following paragraphs of this policy, unless the context otherwise requires, the term "Applicant" shall mean applicants of the following categories:

- a) Applicants for registration as a practicing massage therapist or renewal thereof;
- b) Applicants for registration as a non-practicing (inactive) member of the MTAM or renewal thereof;
- c) Applicants for registration as a massage therapy student or renewal thereof;
- d) Applicants for registration as a retired or renewal thereof.

Criminal Record Checks

In accordance with the Massage Therapy Association of Manitoba's (MTAM) current policy, a current criminal record check (within 6 months of the date of application of registration) must be submitted by practicing and non-practicing members. See the MTAM Criminal Record Check Policy for more information.

Disclosure Obligations

Applicants must disclose the following information about themselves and their practice of massage therapy or any other health profession whether in Manitoba or in another jurisdiction.

- a) A conviction for an offence under
 - i. the Criminal Code (Canada), the Controlled Drugs and Substances Act (Canada) or the Food and Drugs Act (Canada); or
 - ii. A criminal or penal statute of a jurisdiction outside Canada that is, or may be, relevant to his or her suitability to practice.

Where a Criminal Record is disclosed:

1. Where the MTAM Staff becomes aware that an applicant has a criminal conviction, they shall:

CRIMINAL CONVICTIONS

Policy

- a) Report the matter to the Board of Directors; and
- b) Require the Applicant to provide a current criminal records check (if not already provided) and supply sufficient legal or equivalent documentation of the criminal conviction including:
 - i. Type of conviction;
 - ii. Date of conviction;
 - iii. Date of offence;
 - iv. Age at the time of offence;
 - v. Specific nature of offence and description of circumstances of the offence; and
 - vi. Sentence imposed.

2. The Applicant may be asked to provide the following additional information:

- a) Documentary evidence of rehabilitation efforts;
- b) Documentation with respect to the grant of any pardon, record suspension, or purging or expungement of the criminal record; and

3. The information provided or otherwise obtained shall be assessed according to the following factors:

- a) The nature of the offence. For example:
 - i. did the offence occur when the Applicant was in a position of trust;
 - ii. does the offence demonstrate dishonest behavior; and
 - iii. does the offence demonstrate behaviors that would be considered professional misconduct, conduct unbecoming or other breach of the MTAM Code of Ethics or Standards of Practice?
- b) The number and frequency of offences.
- c) The penalty imposed and whether that penalty has been satisfied.
- d) Whether the applicable behavior poses a threat to patient safety or to an employer's ability to operate safely and efficiently. For example:
 - i. convictions related to sexual assault, violence or use of a weapon may cause the Applicant to be ineligible for registration (e.g. physical or sexual abuse, sexual assault, armed robbery, etc.);
 - ii. convictions related to honesty and integrity may cast doubt on character and ethical conduct (e.g. fraud, theft, repeated shoplifting etc.);
 - iii. convictions related to drugs and alcohol may indicate a health problem or an ethical concern (e.g. trafficking, repeated impaired driving convictions, etc.); and

CRIMINAL CONVICTIONS

Policy

- iv. multiple convictions may suggest a pattern of conduct.
- e) The circumstances of a conviction or particulars of the offence, atonement or other applicable information. For example:
 - i. how old was the Applicant when the offence occurred;
 - ii. what was the situation of the Applicant at the time of the offence; and
 - iii. were there any extenuating circumstances?
- f) Demonstration of successful efforts made at rehabilitation and other factors, which eliminate or reduce the likelihood of recurrence. For example:
 - i. how much time has elapsed between the conviction; and
 - ii. what has the Applicant done during that period of time?
- g) Accomplishments of the Applicant since the applicable incident(s). For example:
 - i. has the Applicant shown any tendency to repeat criminal behaviour; and
 - ii. has the Applicant shown a firm intention to rehabilitate himself/herself; and
 - iii. has the Applicant applied for and received a pardon, record suspension, or purging or expungement of criminal record.
- h) Whether there is any connection between the conviction and massage therapy practice?

Guidelines for the Board of Directors

1) In making any decision in accordance with the aforesaid factors analysis, the Board of Directors shall consider the following guidelines:

- a) if more than five (5) years have passed since the penalty was satisfied for the conviction, or if the matter was a summary conviction offence or a pardon, record suspension, or purging or expungement of criminal record was granted, the Board of Directors shall require the Applicant to sign a **Statutory Declaration**, in the form attached as Schedule "A" hereto, indicating that he or she has fully and completely described the background and the disposition of the matter.

If satisfied, the Board of Directors shall accept the applicable application for registration or accept such registration conditionally.

- b) If the matter was an indictable offence involving narcotics, breach of trust, or for which more than a two (2) year penitentiary sentence was imposed, and the said offence occurred within

CRIMINAL CONVICTIONS

Policy

five (5) years of the application for registration, the Board of Directors shall decline the application for registration.

If the matter is other than those described above, or if the Board of Directors, having applied the aforesaid factors analysis, considers it advisable, the Staff (at the direction of the Board of Directors) shall undertake further investigations.

- c) Such further investigations may include, without limitation, obtaining court records to confirm that the Applicant's description of events is accurate and complete. A Statutory Declaration, in the form attached as Schedule "A" hereto, shall also be obtained from the Applicant.

Upon completion of the Staff's investigations, the matter shall be referred again to the Board of Directors. The Board of Directors shall review the matter and apply its discretion to either accept or decline the application for registration or accept such registration conditionally.

Outstanding Court Conditions

1) When information is received which indicates an Applicant has a criminal conviction(s) and the conditions of the court have not been met, the application will be delayed until acceptable evidence is submitted indicating the court conditions have been satisfied.

References:

<http://www.manitobaphysio.com/wp-content/uploads/4PS30-Criminal-Convictions.pdf>

College of Registered Nurses of Manitoba (2011) Board of Directors Policy R-5 Criminal Convictions

CRIMINAL CONVICTIONS

Policy

STATUTORY DECLARATION 2017

TO: The Massage Therapy Association of Manitoba (the "MTAM")

RE: Application for registration as a Massage Therapist with the Association

I, _____, solemnly declare that:

1. I have applied to the MTAM for registration;
2. I understand that I must disclose to the MTAM information about a conviction for an offence under:
(a) the Criminal Code (Canada), the Controlled Drugs and Substances Act (Canada), or the Food and Drugs Act (Canada), or
(b) a criminal or penal statute of a jurisdiction outside Canada that is, or may be, relevant to my suitability to practice.
3. On the ___ day of _____, _____, I was convicted of the following offence:

4. I have provided a full and complete description of all material aspects of the background and the disposition of the matter relating to the aforesaid criminal conviction to the MTAM.
5. I understand that my registration may be cancelled if I provide a false or fraudulent representation to the MTAM. And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the "Canada Evidence Act."

DECLARED before me at the _____ of
_____, in the Province of
Manitoba, this ___ day of _____, 201__

A Commissioner of Oaths or Notary Public in
and for the Province of Manitoba.

My Commission Expires:

Signature of Applicant