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Standard for Professional Boundaries and the Prevention of Sexual Abuse

COTO
College of Occupational Therapists of Ontario
Regulator of occupational therapists in Ontario

Introduction

The Standards of Practice establish the minimum expectations for all occupational therapists in Ontario. They describe how occupational therapists will provide safe, quality, ethical, accountable, and effective services. The Standards apply to all registrants of the College of Occupational Therapists of Ontario ("the College"), regardless of practice setting, job title, or role. The Standards, together with the Code of Ethics, Competencies, and Practice Guidance, establish the expectations for professional practice and the delivery of occupational therapy services.

Code of Ethics	The Code of Ethics defines the College's expectations for ethical practice. It includes a set of values and principles, and is intended for use in all **contexts** and for all levels of decision-making. It forms the foundation for occupational therapists' ethical obligations. Occupational therapists must know and adhere to these principles.
Competencies	The *Competencies for Occupational Therapists in Canada, 2021,* articulates the broad range of skills and abilities required of all occupational therapists. Occupational therapists are to remain familiar with the Competencies to inform practice and professional development.
Standards	Standards of Practice establish the minimum expectations for occupational therapists—expectations that contribute to public protection. Standards apply to all occupational therapists, regardless of their role, job description, or area of practice.
Practice Guidance	Practice Guidance provides information about specific practice situations or legislation. These are recommended practices.

How the Standards are developed and updated

The Standards are based on core occupational therapy principles outlined in the *Competencies for Occupational Therapists in Canada* (2021). The College monitors and revises Standards regularly through its committees, subcommittees, focus groups, and panels. The College consults with registrants and the public to ensure the Standards include core practice elements before seeking approval by the College's Board of Directors. Registrant input is vital to ensuring the Standards reflect changing practice environments and expectations. Data from College committees and program areas such as Investigations and Resolutions, Quality Assurance, Registration, and the Practice Resource Service helps the College keep the Standards current.

How the Standards are used

Clients and the public

Occupational therapy clients and the public use the Standards to understand what they can expect from occupational therapists. These expectations include knowing that services are being provided in ways that are accessible, culturally sensitive, equitable, and inclusive.

The College

The College uses the Standards in all statutory programs to ensure that applicants and registrants have the competencies and skills to practise effectively, to address questions or concerns about a registrant's practice, and to review and support the provision of quality services.

Failure to comply with the Standards constitutes professional misconduct (*Ontario Regulation 95/07*, s. 1 [1]).

The College's Practice Resource Service is available as an additional resource to help registrants and the public if they have questions about the Standards and occupational therapy practice. The Practice Service is confidential and available at 416-214-1177 or practice@coto.org.

Occupational therapists

Clinical and non-clinical occupational therapists are expected to use these Standards in their daily practice and, when requested by the College, be able to demonstrate how their practice meets the performance indicators. Occupational therapists must be able to provide a reasonable rationale when a Standard was not met, including when contextual factors required a deviation from the expectations.

In applying the Standards, occupational therapists must use professional judgement in the following ways:

- Determine how to best meet client needs in accordance with the Standards.
- Understand that these Standards are the College's interpretation of regulatory and practice expectations. When Standards and legislation conflict, the legislation prevails.
- If workplace policies conflict with the Standards, collaborate with their employers to identify and work toward resolving the differences in clients' best interests.

Employers

Employers of occupational therapists use the Standards to know and follow the College's expectations of occupational therapists working at their organization.

Educators and students

Educators and students use the Standards to inform curriculum and placement expectations.

Use of the terms "client," "patient," and "service"

The College uses the term "client" to align with the *Competencies for Occupational Therapists in Canada*. It states that clients are "people of any age, along with their families, caregivers, and substitute decision makers. Therapists may also work with collectives such as families, groups, communities, and the public at large" (2021, p. 19). **The term "clients" applies to people and organizations that occupational therapists work with in both clinical and non-clinical settings.**

The *Regulated Health Professions Act, 1991* (RHPA) uses the term "patients" to refer to people receiving care from regulated health professionals. This definition is not as broad as the term "client" used in the *Competencies.* In these Standards, the College uses the broader term "client" with one exception: it remains consistent with the RHPA by using the term "patient" when referring to sexual abuse legislation.

The term "service" is used throughout these Standards to encompass all aspects of occupational therapy, including assessment, intervention, and consultation. "Service" also includes non-clinical roles

or activities completed by occupational therapists in their practice setting (for example, leading education sessions, coordinating services, researching, or teaching).

How the Standards are organized

As one document, the Standards are sorted alphabetically by title. Each Standard contains:

- An introduction to the main topic explaining why the Standard is important
- Performance indicators or specific behaviours that show how the Standard is to be met
- A list of further resources, including College, legislative, and regulatory documents

General resources

Association of Canadian Occupational Therapy Regulatory Organizations, Association of Canadian Occupational Therapy University Programs, and Canadian Association of Occupational Therapists. (2021). *Competencies for occupational therapists in Canada*. https://acotro-acore.org/sites/default/files/uploads/ot_competency_document_en_hires.pdf

College of Occupational Therapists of Ontario. (2020). *Code of Ethics*. https://www.coto.org/resources/code-of-ethics

Occupational Therapy Act, 1991, Statutes of Ontario (1991, c. 33). Retrieved from the Government of Ontario website: https://www.ontario.ca/laws/statute/91o33

Ontario Regulation 95/07, Professional Misconduct. (2007). Retrieved from the Government of Ontario website: https://www.ontario.ca/laws/regulation/070095

Regulated Health Professions Act, 1991, Statutes of Ontario (1991, c. 18). Retrieved from the Government of Ontario website: https://www.ontario.ca/laws/statute/91r18

Standard for Professional Boundaries and the Prevention of Sexual Abuse

Occupational therapists are fully responsible for establishing and maintaining professional relationships with clients, colleagues, students, and all others they encounter in their practice setting. Breaching clinical, financial, intimate, or social boundaries with clients demonstrates a lapse in professional judgement and jeopardizes clients' emotional and personal safety.

The most serious boundary violation is when relationships with clients become intimate, romantic, or sexual. This is *sexual abuse*. When referring to sexual abuse, both the *Health Professions Procedural Code* (s. 1 [6]) and the *Regulated Health Professions Act, 1991* (RHPA; *Regulation 260/18*) use the term "patient" to refer to anyone who receives services from an occupational therapist, even if the services are provided at no cost or are not documented. The *Health Professions Procedural Code* says that, in the context of the rules on sexual abuse, a person continues to be a patient for one year after the professional relationship ends. In these Standards, the terms "patient" and "client" are used interchangeably.

The College has a position of zero tolerance toward all forms of sexual abuse that may occur within client-therapist relationships. Consent is never a defence. In situations involving sexual abuse, clients are not able to consent. It is always considered inappropriate to enter into a sexual relationship with a client. The RHPA sets out the penalties for occupational therapists who have been found guilty of sexually abusing patients. These include revoking the occupational therapist's certificate of registration (see Appendix 1).

Occupational therapists are expected to:

1. Form appropriate therapeutic relationships

1.1 Never provide occupational therapy services to spouses or partners.

1.2 Avoid providing services to an individual the occupational therapist knows personally or with whom they have a relationship. Exceptions may apply when alternative services are not available or in emergency situations.

1.3 Never form intimate, personal, or romantic relationships with current clients, their relatives, or their support people. Such relationships would exploit the power imbalance inherent in the client-therapist relationship, and objectivity could not be maintained.

1.4 Never form intimate, personal, or romantic relationships with clients currently receiving treatment from colleagues. In these cases, the occupational therapist may be privy to the client's personal information, and objectivity could not be maintained.

1.5 Never form intimate, personal, or romantic relationships with previous clients who were especially **vulnerable**, no matter how much time has passed since the client-therapist relationship ended.

2. Recognize power dynamics

2.1 Be aware of the power imbalance inherent in the client-therapist relationship.

2.2 Understand how power dynamics are related to **intersectionality.**

2.3 Maintain professionalism by limiting excessive sharing of personal or private information and consider how communication is being interpreted.

2.4 Avoid creating situations where dependencies develop between clients and the occupational therapist.

2.5 Educate students, occupational therapy assistants, and others being supervised about maintaining professional boundaries.

2.6 Never form intimate, personal, or romantic relationships with current students or anyone under the occupational therapist's supervision. Such relationships would exploit the power imbalance in the professional relationship.

3. Monitor and manage boundaries and boundary violations

3.1 Know that boundaries extend beyond clients and include those who support them. Boundaries also extend to people the occupational therapist supervises. Maintain all boundaries regardless of the actions, consent, or participation of clients, their support people, or those being supervised.

3.2 Respect each client's boundaries, which are unique to their beliefs, capacity, choices, culture, disability, ethnicity, gender, language, life experiences, lifestyle, past trauma, race, religion, socioeconomic status, and values.

3.3 Be sensitive to how the practice setting and service location (for example, in the client's or therapist's home or in a community setting) may affect boundaries.

3.4 Recognize and manage any shifts in clients' expectations of boundaries (in-person or online) within the client-therapist relationship.

3.5 Be aware of and reflect on any feelings that are developing toward clients and could result in boundary violations (for example, the desire to form intimate connections or the internalization of a client's grief).

3.6 Immediately take steps to document, address, and rectify boundary violations if they occur. This can include discontinuing services and facilitating a referral to another provider.

3.7 Address boundary risks or violations committed by those under the occupational therapist's supervision or direction (for example, assistants, students, or support persons).

3.8 Ensure that policies and procedures are in place to identify and manage boundary risks or violations, including those related to conflicts of interest. Policies should include the documentation process for boundary violations, resulting actions, and resolutions.

4. Prevent sexual abuse

Sexual abuse includes remarks or behaviour of a sexual nature, touching of a sexual nature, or sexual relations between occupational therapists and clients. Sexual abuse is unethical and involves a serious breach of trust and a fundamental abuse of power.

4.1 Never engage in sexual abuse of clients, including behaviour, remarks, or touching of a sexual nature, sexual intercourse, or other forms of physical sexual relations. The consequences of sexual abuse are listed in Appendix 1.

4.2 Always obtain informed consent before initiating any clinical services that involve touching unless in an emergency.

4.3 Respect clients' privacy and dignity. For example, use curtains or dividers in assessment and intervention spaces, use draping and garments to minimize exposure, and provide the option of an observer for potentially sensitive situations.

4.4 File a mandatory report if there is reason to believe that another regulated health professional has sexually abused a client. See Appendix 2 for details.

4.5 Never form intimate, personal, or romantic relationships with previous clients or their relatives and support people unless the following four conditions are met:

a. At least one year has passed since therapeutic services were last provided or since the client was discharged from the occupational therapist's care and

b. The occupational therapist can demonstrate that any previous power imbalance no longer exists and

c. The person involved is not dependent on the occupational therapist and

d. **No** future client-therapist relationship is ever resumed

4.6 Know and follow all other mandatory reporting requirements for sexual abuse.

Related College documents

Code of Ethics
Culture, Equity, and Justice in Occupational Therapy Practice
Decision-Making Framework
Standard for Consent
Standard for the Prevention and Management of Conflicts of Interest
Standard for Record Keeping
Standard for Supervising Students and Occupational Therapy Assistants

Resources

Family Law Act, Revised Statutes of Ontario (1990, c. F.3). Retrieved from the Government of Ontario website: https://www.ontario.ca/laws/statute/90f03

Ontario Regulation 95/07, Professional Misconduct. (2007). Retrieved from the Government of Ontario website: https://www.ontario.ca/laws/regulation/070095

Ontario Regulation 260/18, Patient Criteria Under Subsection 1 (6) of the Health Professions Procedural Code. (2018). Retrieved from the Government of Ontario website: https://www.ontario.ca/laws/regulation/r18260

Regulated Health Professions Act, 1991, Statutes of Ontario (1991, c. 18). Retrieved from the Government of Ontario website: https://www.ontario.ca/laws/statute/91r18

Schedule 2: Health Professions Procedural Code. (1991). Retrieved from the Government of Ontario website: https://www.ontario.ca/laws/statute/91r18#BK41

Appendix 1: Consequences Related to Sexual Abuse of a Patient

The RHPA sets out the penalties for health professionals, including occupational therapists, who have been found guilty of sexually abusing a patient. A discipline hearing is the most serious proceeding that a regulated health professional can face under the Act.

If a panel of the College's Discipline Committee finds that an occupational therapist has sexually abused a patient, Schedule 2 of the *Health Professions Procedural Code*, s. 51 (5), requires the Committee to reprimand the occupational therapist and revoke their certificate of registration if the sexual abuse includes any of the following:

i. Sexual intercourse.
ii. Genital to genital, genital to anal, oral to genital or oral to anal contact.
iii. Masturbation of the [occupational therapist] by, or in the presence of, the patient.
iv. Masturbation of the patient by the [occupational therapist].
v. Encouraging the patient to masturbate in the presence of the [occupational therapist].
vi. Touching of a sexual nature of the patient's genitals, anus, breasts or buttocks.
vii. Other conduct of a sexual nature prescribed in regulations […].

Even if the act of sexual abuse was not one to which the mandatory revocation provision applies, depending on the seriousness of the conduct, the panel of the Discipline Committee may also take one or more of the following actions (*Health Professions Procedural Code*, s. 51 [2]):

1. Directing the Registrar to revoke the [occupational therapist's] certificate of registration.
2. Directing the Registrar to suspend the [occupational therapist's] certificate of registration for a specified [or indefinite] period of time.
3. Directing the Registrar to impose specified terms, conditions and limitations on the [occupational therapist's] certificate of registration for a specified or indefinite period of time.
4. Requiring the [occupational therapist] to appear before the panel to be reprimanded.
5. Requiring the [occupational therapist] to pay a fine of not more than $35,000 to the Minister of Finance.

5.1 […] requiring the [occupational therapist] to reimburse the College for funding provided for that patient [for therapy and counselling].

5.2 […] requiring the [occupational therapist] to post security acceptable to the College to guarantee the payment of any amounts the [occupational therapist] may be required to reimburse [the College for funding provided to the patient for therapy and counselling].

Appendix 2: Mandatory Reports

The RHPA requires occupational therapists to make a mandatory report when they have reasonable grounds, obtained while practising the profession, to believe that another regulated health professional (of the same or a different College) has sexually abused a patient. A mandatory report must also be made by the operator of the health facility.

The mandatory report must be in writing to the alleged abuser's College. It must be made within 30 days after the obligation to report arises. However, if the occupational therapist has reasonable grounds to believe that the alleged abuser will continue to abuse the patient or will abuse others, the occupational therapist must file the report immediately.

If the occupational therapist becomes aware of the possible sexual abuse through a patient's disclosure, they must inform the patient that the occupational therapist is obliged to make a mandatory report. They must obtain the patient's written consent to disclose the patient's name to the College. If the patient does not consent to disclose their name, the occupational therapist will withhold it from the report.

Furthermore, if the occupational therapist becomes aware of possible sexual abuse of a patient while providing psychotherapy to another regulated health professional, the occupational therapist is required to make a report, and if they are able to form one, provide an opinion concerning whether the abusing practitioner is likely to sexually abuse patients in the future. The occupational therapist must make a report even if they stop providing services to the abusing professional.

If the occupational therapist fails to make a mandatory report, they will be subject to a fine of not more than $50,000.

Health facilities that fail to make a mandatory report are subject to a fine of not more than $50,000 in the case of an individual and $200,000 in the case of a corporation.

In addition, if the College finds that the occupational therapist has failed to make a mandatory report, the College may deem the occupational therapist to have engaged in an act of professional misconduct.

Glossary of Terms

Co-create
Co-create is to "create (something) by working with one or more others" (Merriam-Webster, n.d.).

Context
Context strongly influences occupational possibilities and healthcare services. There are three layers of context:

1. Micro context refers to the client's immediate environment: their own state of health and function, family and friends, and the physical environment they move through
2. Meso context refers to the policies and processes embedded in the health, education, justice, and social service systems that affect the client
3. Macro context refers to the larger socioeconomic and political context around the client: social and cultural values and beliefs, laws, and public policies

Culturally safer
Culturally safer is a refinement on the concept of cultural safety. Competent occupational therapists do everything they can to provide culturally safe care. But they remain aware that they are in a position of power in relation to clients. They are mindful that many marginalized people—Indigenous people, for example—have a history of serious mistreatment in healthcare settings. These clients may never feel fully safe. Occupational therapists allow those who receive the services to determine what they consider to be safe. They support them in drawing strength from their identity, culture, and community. Because cultural safety is unlikely to be fully achievable, occupational therapists work toward it.

Ecological considerations for care
Occupational therapists consider the wider impact of the tools used to practise in order to support the sustainability of environmental resources. As environmental stewards where possible, occupational therapists recognize the ecosystems on which human health depends and support sustainability as part of a global initiative.

Intersectionality
Intersectionality describes how a person's multiple social identities (for example, ability, age, class, education, ethnicity, gender, geography, immigration status, income, indigeneity, race, religion, and sexual orientation) combine, overlap, or intersect to create different modes of discrimination and privilege. Intersectionality can help occupational therapists understand the myriad factors affecting a client's health and the disparities in access to healthcare.

Power imbalance
Occupational therapists are in a position of trust and authority over their clients. As a result, the client-therapist relationship is inherently unequal, which results in a power imbalance in favour of the occupational therapist. The client relies on the occupational therapist's clinical judgement and experience to address health-related issues, and the occupational therapist knows the client's personal information and has the ability to influence the client's access to other resources and services.

This power imbalance places the client in a vulnerable position in the therapeutic relationship. Occupational therapists are expected to be aware of this inherent imbalance, and ensure that professional boundaries are maintained to protect the client's best interests and keep the client safe.

Vulnerable client
The vulnerability of a client is determined by many factors, including their health status, life stage, social context, ability to access supports and resources, and the overall complexity of their condition and needs. Some indications of client vulnerability in occupational therapy practice may include those people who are at risk of being highly dependent on the occupational therapist or the services they can help them access, and where services may be prolonged or are high risk and intensive.

Resources

Merriam-Webster. (n.d.). Cocreate. In *Merriam-Webster.com dictionary*. Retrieved November 27, 2022, from https://www.merriam-webster.com/dictionary/cocreate

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