COTNS COLLEGE of OCCUPATIONAL THERAPISTS of NOVA SCOTIA

Standard

Standards for the Prevention of Sexual Misconduct

Issued January 2025

Introduction

Sexual relations between an occupational therapist and a client are ***always*** unethical, are considered a serious breach of trust, and involve a fundamental abuse of power.

The College of Occupational Therapists of Nova Scotia has zero tolerance toward all forms of sexual misconduct within the client-therapist relationship. The client-therapist relationship is based on mutual trust, respect, professional boundaries, collaboration and communication. **Maintaining a professional relationship with a client is the only way an occupational therapist can remain objective when providing service and is necessary for the occupational therapist to ensure clients receive safe, effective, and ethical care.** Any act of sexual misconduct under any circumstances is an abuse of power and a betrayal of the client-therapist relationship. Accordingly, the College will hold all occupational therapists accountable for their behaviour with and towards clients.

Occupational therapists, like all health practitioners, are in a unique relationship of trust and authority with their clients. 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 can influence the client's access to other resources and services. The impact of occupational therapist power and influence can be broad as the occupational therapist operates within a system where client information provided by an occupational therapist, in the form of documentation, for example, has the potential to influence the perceptions of other service providers. If an occupational therapist uses this position of authority to violate boundaries, this is an abuse of power. Occupational therapists are responsible for setting and managing boundaries to ensure that the trust a client has placed in the occupational therapist is not betrayed.

The Standards for the Prevention of Sexual Misconduct describe expectations of conduct for occupational therapists in managing the client-therapist relationship, specifically related to the prevention of sexual misconduct.

What is sexual misconduct?

Sexual misconduct is any actual, threatened, or attempted sexualized behaviour or remarks by an occupational therapist towards a client or in a client's presence, including but not limited to, the following acts or omissions by the occupational therapist*:*

- Making sexually suggestive, flirtatious, or demeaning comments about a client's body, clothing, or sexual history, orientation or preferences.
- Discussing the occupational therapist's sexual history, sexual preferences, or sexual fantasies with a client.
- Any behaviour, communication, gestures, or expressions that could be reasonably interpreted by the client as sexual.

- Rubbing against a client for sexual gratification.
- Removing the client's clothing, gown, or draping without consent or emergent medical necessity.
- Failing to provide privacy while the client is undressing or dressing, except as may be necessary in emergency situations.
- Dressing or undressing in the presence of a client.
- Posing, photographing, or filming the body or any body part of a client for the purpose of sexual gratification.
- Showing a client sexually explicit materials.
- Requesting or making advances to date or have a sexual relationship with a client, whether in person, through written or electronic means.
- Hugging, kissing, or touching a client in a sexual manner.
- Fondling, or caressing a client.
- Terminating the professional-client relationship for the purpose of dating or pursuing a romantic or sexual relationship.
- Sexual abuse.

No conduct constitutes sexual misconduct if the conduct is clinically appropriate to the professional services being provided by the occupational therapist.

Sexual misconduct also includes any actual, threatened, or attempted sexualized behaviour or remarks by an occupational therapist towards colleagues and any person over whom they have supervisory, evaluative, or other authority (such as students, supervisees, employees, research participants).

Sexual misconduct constitutes professional misconduct.

What is sexual abuse?

Sexual abuse is a form of sexual misconduct. The following acts between an occupational therapist and a client constitute sexual abuse:

- Sexual intercourse.
- Genital to genital, genital to anal, oral to genital, or oral to anal contact.
- Masturbation of an occupational therapist by a client or in the client's presence.
- Masturbation of a client by an occupational therapist.
- Encouraging the client to masturbate in the occupational therapist's presence.
- Sexualized touching of a client's genitals, anus, breasts, or buttocks.

Who is the Client?

Client means the individual who is the recipient or intended recipient of health care services from an occupational therapist, and, where the context requires, includes a substitute decision-maker for the recipient or intended recipient of health care services, and includes a vulnerable former client.

Occupational therapists are fully responsible for managing and maintaining professional boundaries with clients. A client's consent or willingness to participate in a sexual relationship or engage in sexual relations will not be accepted as a defence for inappropriate behaviour or sexual abuse.

The College uses the term "client" to refer to individuals who receive occupational therapy services from an occupational therapist. Client is used to reflect the client-centred principles of the profession. It is possible that the term "patient" is used to refer to the recipient of health care service provided by an occupational therapist. For the purpose of these Standards, the terms "client" and "patient" have the same meaning.

An individual is a client of an occupational therapist if there is direct interaction between the occupational therapist and the individual and **ANY** of the following conditions are satisfied:

i. The individual has, in respect of a health care service provided by the occupational therapist to the individual, charged or received payment from the client or a third party on behalf of the client.
ii. The occupational therapist has contributed to a health record or file for the individual.
iii. The individual has consented to the health care service referred by the occupational therapist.

A client remains a client for at least one year after the date the client-therapist relationship ended.

An individual is not a client of an occupational therapist if **ALL** of the following conditions are satisfied:

i. The occupational therapist provided care to the individual in emergency circumstances only; and
ii. The occupational therapist has transferred the care of the individual to another health care professional.

Notwithstanding these criteria, there are situations where an individual may not meet some or all of these prescribed criteria, and where the individual may still be deemed to be a client.

Vulnerable Former Client means an individual who, due to specific circumstances, remains at risk of harm, exploitation, or undue influence even after the client-therapist relationship has ended, and includes the following situations:

- the client is especially vulnerable resulting in an increased power imbalance in the client-therapist relationship in favour of the occupational therapist;
- the client-therapist relationship involved intensive interventions based on relevant factors such as the nature of the information provided to the occupational therapist, nature of the treatment, the frequency and duration of treatment, whether treatment was ongoing, the dependency of the client on the therapist and other relevant factors specific to the client;
- the client's occupational therapy involved psychotherapy; or
- the client has ongoing needs related to the occupational therapy services provided.

Definition of Partner:

Partner means a person who has had a personal (romantic, emotional, or sexual) relationship outside of marriage with the occupational therapist for a period of one year or more, including a person with whom the occupational therapist shares the parentage of a dependent child.

Application of the Standards for the Prevention of Sexual Misconduct

The following **standards** describe the minimum expectation for occupational therapists in the prevention of sexual misconduct.

- The **performance indicators** listed below each standard describe more specific behaviours that demonstrate the standard has been met.
- There may be some situations where the occupational therapist determines that a particular performance indicator has less relevance due to client factors and/or environmental factors. Such situations would require the occupational therapist to seek further clarification.
- It is expected that occupational therapists will always use their clinical judgement to determine how to best meet client needs in accordance with the standards of the profession.

Overview of the Standards for the Prevention of Sexual Misconduct

1. Establishing and Maintaining Professional Boundaries
2. Consent for Touching
3. Respecting Privacy & Dignity
4. No Treatment of Spouses
5. Mandatory Reporting
6. Regulatory Participation

Standard 1 – Establishing and Maintaining Professional Boundaries

Standard 1

An occupational therapist will take full responsibility to establish and maintain professional boundaries with clients in an ethical, transparent and client-centred manner,at all times.

Performance Indicators

An occupational therapist will:

1.1	Never sexually abuse a client or engage in any sexually abusive behaviour with a client or a former vulnerable client.
1.2	Never engage in sexual misconduct which includes any actual, threatened, or attempted sexualized behavior or remarks by an occupational therapist towards a client or in a client's presence.
1.3	Subject to clause 1.4, never engage in a consensual personal relationship, with an individual, unless: • **at least one year** has elapsed since the client-therapist relationship ended, **and** • the power imbalance in the therapeutic relationship between the occupational therapist and the client no longer exists.
1.4	Even after one year has elapsed since the client-therapist relationship ended, **never** engage in sexual misconduct, including a consensual personal relationship, with a former vulnerable client.
1.5	Understand the power imbalance that exists in favour of the occupational therapist in all client-therapist relationships.
1.6	Never engage in sexual misconduct towards a colleague or any person over whom they have supervisory, evaluative, or other authority (such as students, supervisees, employees, research participants).
1.7	Identify the potential risks within their practice in relation to professional relationships and implement strategies for the management of professional boundaries.
1.8	Recognize their own personal beliefs, values, biases and their position of influence with clients.
1.9	Identify the scope of relationships with clients and avoid exploiting these relationships for personal gain or advantage.

Standard 2 – Consent for Touching

Standard 2

An occupational therapist will obtain informed consent prior to initiating assessment or treatment with the client that involves touching, behaviour or remarks of a clinical nature that may be misinterpreted to be of a sexual nature.

Performance Indicators

An occupational therapist will:	
2.1	Obtain informed consent including an explanation of the clinical nature and purpose of touching the client prior to proceeding;
2.2	Document the discussion of obtaining informed consent;
2.3	Never rely on a client's consent or willingness to participate in sexual relations as a defence for inappropriate behavior or sexual abuse.

Standard 3 – Respecting Privacy & Dignity

Standard 3

An occupational therapist will respect the privacy and dignity of the client at all times.

Performance Indicators

An occupational therapist will:	
3.1	Ensure assessment and treatment spaces offer appropriate privacy which may include the use of curtains or dividers;
3.2	Ensure appropriate use of draping and garments to minimize unnecessary exposure;
3.3	Provide appropriate options or alternatives for potentially sensitive situations; for example, a third person observer;
3.4	Use an appreciation and understanding of cultural diversity to address the potential impact of factors such as culture, religion, race, ethnicity, sex, gender, gender identity, or language on maintaining professional boundaries and preventing sexual misconduct.

Standard 4 – No Treatment of Spouses/Partners

While spouses and partners are exempt from the definition of client, it is considered a conflict of interest for occupational therapists to provide occupational therapy services to spouses or partners.

Standard 4

An occupational therapist will not treat their spouse or partner except in the case of an emergency.

** There are no performance indicators for Standard 4.*

For example, if an occupational therapist's spouse or partner fell while on a hike, the occupational therapist would be permitted to apply a temporary splint to assist with pain management until their spouse could access medical care.

Standard 5 - Mandatory Reports

Occupational therapists are required to complete a mandatory report when they acquire information giving reasonable grounds to believe that another regulated health professional has engaged in sexual misconduct. An immediate report must be made in writing.

If the College finds that an occupational therapist failed to make a report under the mandatory reporting requirements of this Standard, the College may find the occupational therapist to have engaged in an act of professional misconduct or conduct unbecoming.

Standard 5

An occupational therapist shall make a mandatory report if they have reason to believe that another regulated health professional or unregulated health professional, has engaged in sexual misconduct sexually abused a client.

Performance Indicators

An occupational therapist will:

5.1	Make an immediate written report to the Registrar if an occupational therapist has reasonable grounds to believe that another occupational therapist has engaged in sexual misconduct.

5.2	Make an immediate written report to the regulatory body of another health profession if the occupational therapist has reasonable grounds to believe that a registrant of that profession has engaged in sexual misconduct.
5.3	Make an immediate written report to an employer if the occupational therapist has reasonable grounds to believe that a regulated or unregulated employee has engaged in sexual misconduct.

Standard 6 – Regulatory Participation

Occupational therapists work within a diverse healthcare system and are in a position to work with other regulated healthcare professionals. Cooperation with health professions regulators is important to ensure appropriate regulatory processes can be completed in the protection of the public interest.

Occupational therapists have a statutory duty to cooperate with the Regulator pursuant to section 60(1)(b) of the *Regulated Health Professions Act*.

Standard 6

An occupational therapist must cooperate with any regulatory body or committee of a regulatory body with respect to any regulatory process related to this standard.

Performance Indicators

An occupational therapist will:

6.1	Participate with the occupational therapist's regulatory body or committee of a regulatory body.
6.2	Participate with the regulatory body or committee of a regulatory body from another regulated health profession.

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