



# PROFESSIONAL MISCONDUCT REGULATION

## ONTARIO REGULATION O.REG. 95/07

*Store at Tab #2 of your Registrant Resource Binder*

Regulation made under the Occupational Therapy Act, 1991. This document has been modified to include subheads for ease of reference.

### ACTS OF PROFESSIONAL MISCONDUCT

1. The following are acts of professional misconduct for the purposes of clause 51 (1) (c) of the Health Professions Procedural Code:

#### Practice Issues

1. Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession.
2. Abusing a client or a client's authorized representative verbally, physically, psychologically or emotionally.
3. Doing anything to a client for a therapeutic, preventative, palliative, diagnostic, cosmetic or other health-related purpose except,
  - i. with the informed consent of the client or the client's authorized representative, or
  - ii. as required or authorized by law.
4. Engaging in misconduct of a sexual nature involving someone, other than a client,
  - i. with whom the member has a professional relationship, or
  - ii. in relation to whom the member is in a position of authority or trust.
5. Giving information about a client to a person other than the client or the client's authorized representative except with the consent of the client or the authorized representative or as required or authorized by law.
6. Failing to reply appropriately to a request by a client or a client's authorized representative for information respecting a service provided by the member.

## PROFESSIONAL MISCONDUCT REGULATION

7. Discontinuing professional services that are needed unless the discontinuation would reasonably be regarded by members as appropriate having regard to,
  - i. the member's reasons for discontinuing the services,
  - ii. the condition of the client,
  - iii. the availability of alternate services, and
  - iv. the opportunity given to the client to arrange alternate services before the discontinuation.
8. Providing, in response to a request by a client or a client's authorized representative, a professional service that contravenes the standard of practice of the profession.
9. Providing unnecessary treatment or continuing to treat a client where the treatment is no longer indicated or has ceased to be effective.
10. Attempting to treat a condition that the member knows or ought to know he or she does not have the knowledge, skills or judgment to treat.
11. Failing to advise a client or the client's authorized representative to consult another member of the College or, if appropriate, a member of a health profession within the meaning of the *Regulated Health Professions Act, 1991*, where the member knows or ought to know that the client requires a service that the member does not have the knowledge, skills or judgment to offer or is beyond his or her scope of practice.
12. Failing to appropriately supervise a person whom the member is professionally obligated to supervise.
13. Permitting, counselling or assisting a person who is not a member to represent himself or herself as such.
14. Signing or issuing, in his or her professional capacity, a document that the member knows or ought to have known contains a false or misleading statement.
15. Recommending or selling services or equipment for an improper purpose.
16. Failing to advise a client, a client's authorized representative or a member of the public, when requested, of his or her ability to file a complaint with the College and the procedure for doing so.
17. Failing to provide a client, a client's authorized representative or a member of the public, when requested, with the address and telephone number of the College.
18. Practising the profession while the member is in a conflict of interest.

### **Business Practices**

19. Submitting an account or charge for services that the member knows is false or misleading.
20. Charging a fee that is excessive in relation to the service provided.
21. Conferring, requesting or receiving a benefit in relation to the referral of a client.
22. Failing to advise a client or a client's authorized representative, prior to providing a service, of the fee to be charged for the service or of any penalties that will be charged for late payment of the fee.

23. If a client or a client's authorized representative expresses concern respecting the fee to be charged for a service, failing to provide that person with a reasonable opportunity to consider whether he or she wants to decline the service.
24. Failing to itemize an account for professional services,
  - i. if requested to do so by the client or the person or agency who is to pay, in whole or in part, for the services, or
  - ii. if the account includes items that are purchased on behalf of clients.
25. Offering or giving a reduction for prompt payment of an account.
26. Breaching an agreement with a client or a client's authorized representative relating to professional services for the client or fees for such services.

### **Record Keeping**

27. Failing to keep records in accordance with the standard of the profession.
28. Falsifying a record relating to the member's practice.
29. Failing, without reasonable cause, to provide a report or certificate relating to an assessment or intervention performed by the member, within a reasonable time, to a client or the client's authorized representative after the client or authorized representative has requested such a report or certificate.
30. If the member intends to close his or her practice, failing to take reasonable steps to give appropriate notice of the intended closure to each client for whom the member has primary responsibility and failing to,
  - i. ensure that each client's records are transferred to the member's successor or another member, if the client so requests, or
  - ii. ensure that each client's records are retained or disposed of in a secure manner.

### **Ethical Conduct**

31. Failing to promptly report to the College an incident of unsafe practice by a member.
32. Making a claim respecting the utility of a remedy, treatment, device or procedure other than a claim which can be supported as reasonable professional opinion.
33. Practising the profession while the member's ability to do so is impaired or adversely affected by any condition or dysfunction which the member knows or ought to have known impairs or adversely affects his or her ability to practice.
34. Contravening, by act or omission, the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts.
35. Contravening, by act or omission, a federal, provincial or territorial law, a municipal bylaw or a bylaw or rule of a hospital within the meaning of the *Public Hospitals Act* in which the member provides services if,
  - i. the purpose of the law, bylaw or rule is to protect public health, or
  - ii. the contravention is relevant to the member's suitability to practise.

## College Issues

36. Contravening, by act or omission, a term, condition or limitation on the member's certificate of registration.
  37. Inappropriately using a term, title or designation in respect of the member's practice.
  38. Using a term, title or designation indicating or implying a specialization in the profession.
  39. Practising the profession using a name other than the member's name as entered in the register.
  40. Practising the profession while the member's certificate of registration has been suspended.
  41. Failing to comply with an order of a panel of the College.
  42. Failing to appear before a panel of the Complaints Committee to be cautioned.
  43. Failing to carry out an undertaking given to the College or breaching an agreement with the College.
  44. Failing to co-operate with a College investigation.
  45. Failing to reply appropriately or within a reasonable time to a written inquiry from the College.
  46. Failing to co-operate with an investigator of the College of another regulated health profession who produced evidence of his or her appointment under section 75 of the Health Professions Procedural Code.
  47. Directly or indirectly benefiting from the practice of occupational therapy while the member's certificate of registration is suspended unless full disclosure is made by the member to the College of the nature of the benefit to be obtained and prior approval is obtained from the Executive Committee.
  48. Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.
  49. Engaging in conduct that would reasonably be regarded by members as conduct unbecoming an occupational therapist. O. Reg. 95/07, s. 1.
2. Omitted (revokes other Regulations). O. Reg. 95/07, s. 2.