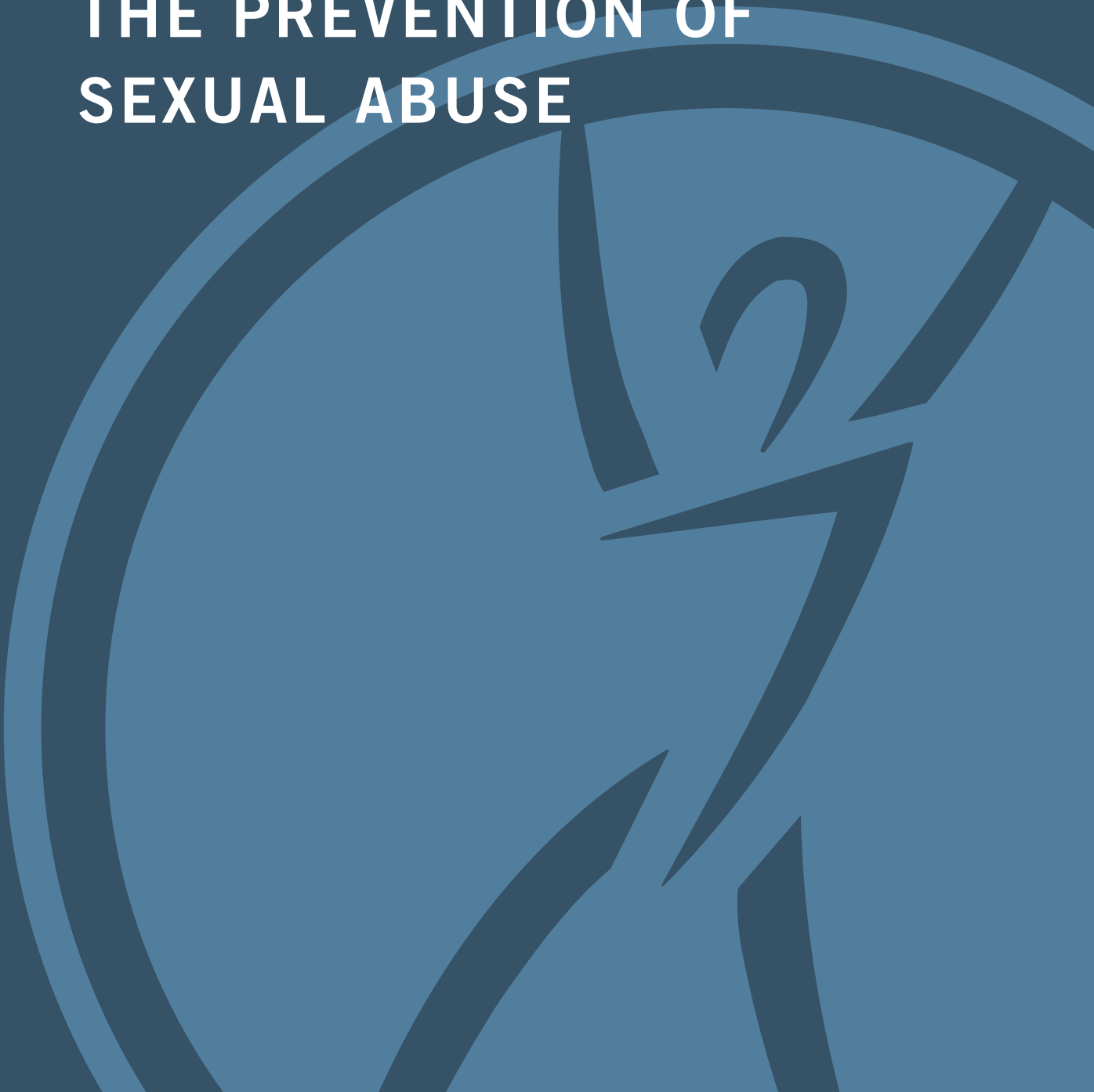




College of Occupational  
Therapists of Ontario

# STANDARDS FOR THE PREVENTION OF SEXUAL ABUSE







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

## Introduction

Occupational therapists, like all health practitioners, are in a unique relationship of trust with their clients. The professional relationship is an unequal relationship, which results in a power imbalance. This is due to the therapist's position of authority and specialized knowledge in relation to the client's own health. A client's desire to improve his/her own health leads to a need to establish trust in the professional much more quickly and completely than he/she might do otherwise. If an occupational therapist uses this position of power to violate boundaries, this is an abuse of power. When boundaries relating to personal dignity, privacy, control and professional detachment are breached, it can lead to, or be perceived as sexual abuse. Therapists are responsible for setting and managing boundaries to ensure that the trust a client has placed in the therapist is not betrayed. In setting boundaries, therapists need to work to ensure that treatment goals will be reached and their words and actions will not be misinterpreted by the client.

Instances of boundary violations by health practitioners leading to sexual abuse led the Ontario government to include a section on the prevention of sexual abuse in the *Regulated Health Professions Act 1991* (RHPA).

The RHPA requires each Health College to:

- Institute mandatory reporting of sexual abuse,
- Provide funding for therapy and counseling of patients who have been sexually abused by a Registrant, and
- Develop a Sexual Abuse Prevention Program for members that will significantly reduce the potential for sexual abuse by members of the profession.

Each College is required to establish a Sexual Abuse Prevention Program to include:

- Educational requirements for Registrants,
- Guidelines for the conduct of Registrants with clients

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- Training of College staff, and
- The provision of information to the public.

The topic of boundaries is a broad one, covering many issues, including but not limited to, financial dealings, conflict of interest, and breach of confidentiality. This Standard deals with the expectations of conduct in the therapist-client relationship that specifically relate to the prevention of sexual abuse.

Therapists need to keep in mind however that it is their responsibility to establish and maintain the trust relationship and to avoid crossing the boundaries in the broad sense. When boundaries are violated and there is an abuse of power, the occupational therapist will ultimately be held responsible. The onus is on the occupational therapist to recognize issues of power and control, be alert to, and respect boundaries and practice in a manner which establishes and preserves the client's trust. Therapists are advised to review the *Code of Ethics* (June 2002) and *Principled Occupational Therapy Practice* (June 2002) for additional guidance on College expectations for professional client-therapist relationships.

### Definitions

#### What is sexual abuse?

Sexual Abuse of a patient by a Registrant is defined in the RHPA as:

- Sexual intercourse or other forms of physical sexual relations between the Registrant and the patient
- Touching, of a sexual nature, of the client by the Registrant; or
- Behaviour or remarks of a sexual nature by the Registrant towards the client.

'**Sexual nature**' does not include touching, behaviour or remarks of a clinical nature appropriate to the services provided.

#### Who is the client?

In the *Regulated Health Professionals Act*, the client is referred to as the "patient" and the legislation states that whether a person is considered a patient depends on the nature of the relationship between the person and the Registrant in the particular circumstances. For example, according to the RHPA a patient could include a child's parent. The College has defined the client as the individual (or group of individuals) whose occupational performance issue(s) has resulted in a request for occupational therapy service. (*Principled Occupational Therapy Practice*, 2002) For the purposes of this sexual abuse prevention standard, and in keeping with the expectations of the RHPA, therapists should apply a broad definition of client.

#### What is a Mandatory Report?

Under the RHPA legislation, a mandatory report must be made by a regulated health professional who, in the course of practising his or her profession, acquires information leading to reasonable grounds to believe that another regulated health professional sexually abused a patient. A mandatory report must also be made by the operator of the health facility. The report must be made in writing to the alleged abuser's College within thirty days after the obligation to report arises, unless the person who is required to file the report has reasonable grounds to believe that the health professional will continue to abuse the client or will abuse other clients. In that case the report must be filed immediately. OT's are subject to a fine of not more than \$25,000 for failing to make this mandatory report.

## College Position

The College of Occupational Therapists of Ontario has adopted the position of zero tolerance toward all forms of sexual abuse within the client-therapist relationship. The client-therapist relationship is based on mutual trust, respect, defined role boundaries, and clear communication. Any act of sexual abuse is a misuse of power and a betrayal of the client-therapist relationship. Accordingly, the College will hold all occupational therapists accountable for their behaviour with clients at all times. Any form of sexual abuse of the client under any circumstances is unacceptable and will not be tolerated.

The College is committed to the prevention of sexual abuse through the education of its Registrants and the public. The College recognizes the importance of ongoing education that will enable Registrants to foster and develop positive relationships with the recipients of direct care. The College will provide guidelines on client-therapist relationships and expects that Registrants will review their practices and individual behaviours in light of the Regulated Health Professions Act and College documents on sexual abuse.

The College will formally investigate all sexual abuse complaints or reports made against a Registrant. When warranted, appropriate disciplinary action will be taken against the Registrant. The College acknowledges the potential vulnerability of the clients who lodge sexual abuse complaints against Registrants and will provide an accessible reporting process that is sensitive to their needs.

Although reports related to behaviour or remarks of a sexual nature may be referred to the Quality Assurance Committee, they will first be investigated by the Executive or Complaints Committee. Confidentiality of information related to all parties will be respected as fully as possible. The College believes in transparency of the process for all parties and will provide the necessary information to do so to the fullest extent possible. All substantiated allegations involving physical sexual relations between the Registrant and the client, or touching of a sexual nature of the client by the registrant, will result in an allegation of professional misconduct against the Registrant.

## Application of the Standards for Prevention of Sexual Abuse

- The following **standards** describe the minimum expectation for occupational therapists.
- The **performance indicators** listed below each standard describe more specific behaviours that demonstrate the standard has been met.
- It is not expected that all performance indicators will be evident all the time, but could be demonstrated if requested.
- There may be some situations, where the therapist determines that a particular performance indicator is not relevant due to client factors and/or environment factors.
- It is expected that therapists will always use their clinical judgement to determine how to best to meet client needs in accordance with the standards of the profession.
- It is also expected that therapists will be able to provide the rationale for any variations from the standard.

## STANDARDS FOR OCCUPATIONAL THERAPY ASSESSMENTS

The RHPA outlines expectations related to the prevention of sexual abuse. In addition to these rules, the College expects that for the purpose of preventing sexual abuse to clients, all occupational therapists adhere to the following Standards.

College publications contain practice parameters and standards which should be considered by all Ontario occupational therapists in the care of their clients and in the practice of the profession. College publications are developed in consultation with professional practice leaders and describe current professional expectations. It is important to note that these College publications may be used by the College of other bodies in determining whether appropriate standards of practice and professional responsibilities have been maintained.

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#### Standard 1

An occupational therapist will establish and maintain appropriate boundaries with clients in relation to the prevention of sexual abuse, at all times.

#### Performance Indicators

An occupational therapist will:

1. Identify the potential risks within his or her practice in relation to professional relationships and implement strategies for the management of boundaries;
2. Continually recognize his or her own personal needs and values and the potentially influential position with clients;
3. Identify the potential scope of relationships with clients and avoid exploiting these relationships for personal gain;
4. Never enter into a sexual relationship with a current client, or someone with whom the client has a significant personal relationship (e.g., child's parent);

#### Standard 2

An occupational therapist will explicitly gain informed consent prior to initiating an intervention with the client that involves touching, or may be reasonably deemed as appearing to relate to a sexual nature.

It is important to note, that a client's consent or willingness to participate in a relationship or sexual activity will not be accepted as a defense for inappropriate behaviour.

### **Performance Indicators**

An occupational therapist will:

1. Explain the clinical nature of, or reason for, an intervention prior to proceeding;
2. Explain the rationale and purpose of touching a client, prior to proceeding;
3. Document the discussion of obtaining informed consent.

### **Standard 3**

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

### **Performance Indicators**

An occupational therapist will:

1. Ensure appropriate draping and use of robes with clients at all times;
2. Provide options/alternatives for potentially sensitive situations (e.g., third person attending etc.);
3. Practice within their own scope (e.g., have sufficient relevant knowledge of culture, religion, race, ethnicity, language etc. and the potential impact of these factors on professional boundaries);
4. Refrain from remarks of a sexual nature with clients.

### **Consequences Related to Sexual Abuse of a Client**

A discipline hearing is the most serious proceeding that a regulated health professional can face and carries with it the risk of loss of registration. Section 51(5) of the RHPA sets out the penalties for a Registrant who has been found guilty of committing an act of professional misconduct by sexually abusing a client. A Panel of the College's Discipline Committee must:

1. Reprimand the Registrant. A record of the reprimand is to be placed on the Register and be made available to the public; and
2. Revoke the Registrant's certificate of registration if the sexual abuse consisted of, or included, 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 Registrant by, or in the presence of, the client; (iv) masturbation of the client by the Registrant; and (v) encouragement of the client by the member to masturbate in the presence of the Registrant.

Depending on the seriousness of the substantiated allegation, a Panel of the Discipline Committee can choose, in addition to the above penalties, to (Section 51(s)):

1. Revoke the Registrant's certificate of registration;
2. Suspend the Registrant's certificate of registration;

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3. Impose specified terms, conditions and limitations on the Registrant's certificate of registration;
4. Reprimand the Registrant;
5. Require the Registrant to pay a fine of not more than \$35,000 to the Minister of Finance of Ontario; and
6. Require the Registrant to pay all or part of the College's legal costs and expenses, the College's costs and expenses incurred in investigating the matter and the College's costs and expenses in conducting the hearing.
7. Further, an application for re-instatement by a person whose certificate of registration has been revoked for sexual abuse of a client shall not be made earlier than five years from the revocation (Section 72(3)).

If the College finds that an occupational therapist failed to make a report under the mandatory reporting requirements of the RHPA the College may find the Registrant to have engaged in an act of professional misconduct.

### Funding for Therapy and Counseling

If, as a result of the Discipline Hearing, a finding is made that the Registrant sexually abused the client while a client or, under the Regulation for Funding for Therapy and Counseling (General Regulation O. Reg. 130/00 Part VII), the person will be eligible to access funding for counseling and therapy from the Sexual Abuse Fund for a limit specified in the RHPA.

The College requires therapists to maintain professional liability insurance (as defined General Regulation O. Reg. 130/00 Part VIII and in the Bylaws, part 20) and will seek reimbursement for counseling funds through the therapist's insurer. Failing to comply with this condition of registration will result in revocation of a Registrant's certificate. The College also maintains a reserve fund to ensure the counseling funds are available in a timely fashion and in the event a Registrant has not met the requirement to maintain liability insurance.

### Practice Examples

1. An occupational therapist works on an adult rehabilitation service. A client, a 30 year old man who has been diagnosed with a brain injury, requires a transfer from his wheelchair to a plinth during the course of treatment. What must the occupational therapist consider in order to meet the standards in relation to the prevention of sexual abuse?

#### Discussion:

According to the *Standards for the Prevention of Sexual Abuse – COTO 2007*, "An occupational therapist will establish and maintain appropriate boundaries with clients in relation to the prevention of sexual abuse at all times." An occupational therapist in this case would be expected to identify any possible risks whereby boundaries could be breached or perceived to be breached. For clients with confirmed or suspected cognitive impairments, there is an increased risk that communication or actions by a treating professional could be misinterpreted. Setting appropriate boundaries and using clear, professional communication is important with such clients. Having identified the possible risks, the occupational therapist in this situation should take steps to ensure that the client understands the

purpose for the transfer and the need for touch of this clinical nature. Gaining the client's consent for this activity at this session and at future sessions will decrease the risk that actions of a clinical nature are misinterpreted.

2. An occupational therapist finds themselves becoming attracted to the single parent of a child they are treating. The parent of this child suggests a meeting for coffee after the child's appointment to discuss the child's therapy, stating it would be "more comfortable in the relaxed atmosphere of a restaurant versus the clinic".

**Discussion:**

According to the *Standards for the Prevention of Sexual Abuse – COTO 2007*, "An occupational therapist will establish and maintain appropriate boundaries with clients in relation to the prevention of sexual abuse at all times." In this scenario, the occupational therapist should "recognize his or her own personal needs and values and potentially influential position with clients". Occupational therapists should identify any risks that present themselves in relationships with clients or someone with whom they have a significant professional relationship, such as a parent. In this scenario, the occupational therapist would be expected to consider whether they could continue to provide objective and fair treatment to the child based on the change in the relationship dynamic with the parent. If the occupational therapists determines they can continue to treat the child, this decision would be based in part on the occupational therapist acknowledging the need to implement communication and behaviour strategies to re-establish the professional boundary in the best interests of the child's treatment. Examples of strategies might include, having a frank and open discussion with the parent about your professional obligations in this situation, arranging all meetings either in the facility or by phone, providing only your work number and indicating you can return calls only during working hours.

3. While on vacation, an occupational therapist has a chance meeting with a former client that they treated for a significant length of time following a motor vehicle accident. The occupational therapist finds this former client attractive and the feeling is mutual. They agree to meet the next day to "catch up". What should this occupational therapist consider prior to entering into a relationship with this former client?

**Discussion:**

According to the *Standards for the Prevention of Sexual Abuse – COTO 2007*, "An occupational therapist will establish and maintain appropriate boundaries with clients in relation to the prevention of sexual abuse at all times." While this is not a current client, the occupational therapist needs to consider the possibility of a continuing power imbalance in this relationship. The occupational therapist may want to use the conscious decision making tool (COTO, 2002) to assist with working through this decision. Consideration of the length of time the OT treated the client and the intensity of the treatment period might assist the occupational therapist to determine if a relationship with this former client is appropriate. An open discussion with the individual about the change in dynamics might assist in collaborative decision-making regarding pursuing a relationship. If the issue of power imbalance is not addressed or considered it could lead to feelings of perceived sexual abuse on the part of the former client, particularly if the relationship progresses to include sexual activity.

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4. An occupational therapist working at an adult mental health day program meets a client in the hall and stops to talk. During the conversation, the occupational therapist touches the client's arm intending this touch to be a supportive action. The client moves back, increasing the distance from the therapist. At their next meeting, the client is unusually quiet and withdrawn. The therapist suspects the client may have reacted to the interaction that occurred previously. What might this therapist consider?

### **Discussion:**

According to the *Standards for the Prevention of Sexual Abuse – COTO 2007*, “An occupational therapist will respect the privacy and dignity of the client at all times.” The occupational therapist is expected to “practice within their own scope (e.g. have sufficient relevant knowledge of culture, religion, race, ethnicity, language etc, and the potential impact of these factors on professional boundaries)”. It is important for occupational therapists to be aware of any type of physical contact with clients and how it may be received. Physical contact includes inadvertent or unintentional touch. Clients may respond to touch in different ways based on their life experiences, cultural, values and other factors. Some clients may deem social gestures that include touching to be a boundary violation of a sexual nature (this can be the case with individuals who have suffered sexual abuse in the past). In this scenario, the therapist should determine, ideally through transparent dialogue with the client, if there has been a perceived or an actual boundary violation. The therapist would be expected to take a mindful approach towards resolving the issue with respect for the client's values and beliefs, in an attempt to restore trust within the boundaries of the client therapist relationship.



