Conscious Decision-Making in Occupational Therapy Practice

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Conscious Decision-Making

Introduction

Each of us is required to make a multitude of decisions every day. The nature of these decisions moves along a continuum. They may present as simple or concrete choices that have little impact on the individual(s) involved or they may be complex with an outcome that greatly affects others and has a long-lasting impact. In the majority of situations, the decision-making process is habitual and invisible.

Occasionally situations arise that require a very thoughtful and calculated or “conscious” decision. The following framework is provided to assist occupational therapists in making conscious decisions that reflect accountable, principled practice.

The Need for a Decision-Making

There are many factors that contribute to a complex and challenging practice environment. Autonomous practice brings responsibility for managing one’s own practice. The public’s expectation of accountability is strong. New technologies, a growing evidence base, and changing funding structures all add to the complexity of today’s work environment. It is suggested that OTs will benefit from a structured method to assist them to analyze complex and challenging situations that arise in practice.

The following tool is intended to help therapists to identify and consider the principles inherent in any practice scenario, and to choose a course of action in keeping with their regulatory and professional accountabilities. This tool is intended to enhance College resources by offering a mechanism for therapists to process the information.

“Conscious” Decision-Making

“Conscious competence” serves as a fundamental concept within the College’s Quality Assurance Program. The College defines a consciously competent practitioner as one who:

- knows his or her strengths and limits;
- knows the standards, guidelines and rules, and the values behind them;
- makes good choices consciously and deliberately, and
- is able to explain why he or she took a particular course of action.
As stated earlier, many decisions are made every day and although they may be sound, often they are arrived at automatically or routinely. Every so often however, a situation presents itself whereby the therapist becomes aware of the need to consider the issue and choose a course of action carefully and deliberately.

**A Conscious Decision-Making Process**

Situations that require conscious decisions frequently involve an ethical dilemma and are often initially identified by the therapist as an uneasy or hesitant feeling – a sort of “niggly” or troubling feeling, sometimes referred to as a “yuck factor.” Becoming aware of and understanding this gut feeling is usually the first step toward a conscious decision-making process. Even if these uncomfortable feelings are not experienced, it is important to reflect on practice to determine if the principles of ethical practice are being upheld.

Ethical decisions are about doing the right or good thing. This uneasy feeling suggests there is something not quite right. Sometimes there is an option that is a clearly good one, but there are, unfortunately, many situations when the right thing feels wrong because a positive outcome for everyone involved is not possible. There is no tool or process that will completely eliminate the difficulty attached to these decisions. However, if a conscious decision-making process has been followed you can feel confident that a reasonable outcome can be achieved.

A review of decision-making tools reveals there are many approaches and many similarities within them. The specific steps of the process are less important than the “consciousness” of completing the process. In order to ensure a sufficient level of “consciousness” in the decision-making process, the therapist needs to:

- know the facts and contributing factors;
- know the standards, guidelines, rules, values and principles involved;
- identify the available courses of action, and
- be able to explain and evaluate the decision.

The framework that follows serves as one mechanism that will help to accomplish conscious decision-making.

This framework is also available as worksheets on pages 14-16.

**A Conscious Decision-Making Framework**
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Step One: Describe the Situation

Ask yourself the following questions:

1. What are the facts of the situation?
2. What is the scope of the referral?
3. Who is the client?
4. Who are the other stakeholders?
5. What is the underlying issue(s)?

Step Two: Identify the principles related to the situation

The principles include those outlined in the Code of Ethics and elaborated upon in the Guide to the Code of Ethics. These include, but are not limited to: client-centred practice; respect for autonomy; collaboration and communication (those principles promoting the values of respect); and honesty; fairness; accountability and transparency (all promoting the values of trust.)

Step Three: Identify the relevant resources to assist with the decision-making

1. Is there any relevant legislation, regulation(s) standards or guidelines? (relevant College Standards may include: Consent; Professional Boundaries; Conflict of Interest; Prevention of Sexual Abuse; Assessment; and Record Keeping.)
2. Are there any individuals with expertise in the area? (e.g., colleagues, managers, leaders, the College)
3. Is there any relevant evidence (literature, research, best practice)?

Step Four: Consider if you need further information or clarification

1. Do you understand the intent of the relevant legislation, regulations, standards or guidelines?
2. What evidence exists (literature, research, best practice)?
3. Are there any missing facts? Have you identified the client’s best interests?
4. Are all of the stakeholders and their interests identified?

Step Five: Identify the options
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Imagine a range of reasonable and realistic options to address the different aspects of the situation. Your plan may ultimately include a set of these options.

**Step Six: Choose the best option**

Apply the principles and any legislation, regulation, standard, guideline or policy that applies. Consider the expected outcome and potential impact of each option.

**Step Seven: Take action**

Select an option or set of options that you believe will offer the best approach to the situation. Decide on how best to take the action.

**Step Eight: Evaluate the decision**

1. How comfortable do you feel that you chose the best option?
2. What was the impact of your decision on those involved?
3. Did you achieve the expected outcome?
4. Would you make the same decision again, or do something differently?
5. Is there anything in your practice that needs to be adjusted now or in the future?
6. Are there any amends or reparations that need to be made?

**Applying the Principles to the Decision-Making Framework**

The above framework relies on promotion of the values of respect and trust through consideration of the principles of practice in relation to the situation. Knowing how to identify and apply these principles is key. There are many factors that impact on the final decision. These include client needs, professional ethics, professional standards, legislation, guidelines, policies, and therapist competence. Maintaining a focus on the key principles can help to organize the process and ensure the end result is one of *principled OT practice*. While greater detail can be found in the College’s Guide to the Code of Ethics, the following briefly summarizes the key principles of OT practice:

**Client-Centred Practice**
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The principle of maintaining a client-centred approach is at the core of occupational therapy – demanding that practice is centred on the client’s needs, wishes, and abilities, in the context of their priorities, supports and resources.

Respect for Autonomy

Autonomy, often stated as the principle of respect for autonomy, is the idea that a capable person (in the sense of mental capacity or competence) can make their own decisions about their own life, within legal limits, as always. Autonomy is implicit in the idea of client-centred practice.

Collaboration and Communication

Clear and respectful communication is core to the development and maintenance of the client-therapist relationship. It is considered a core competency for our practice that we utilize a communication process that promotes shared understanding with those with whom we interact. Effective communication involves the establishment of a feedback process and includes appropriate use of verbal, non-verbal and written communication.

Honesty

Honesty is recognized by most people as telling the truth. Honesty generally exists alongside other virtuous traits such as integrity and straightforwardness. These ensure that ‘how’ we are honest is in keeping with other principles and our clients’ best interests.

Fairness

Fairness is a term that is familiar to most people. Being fair and being perceived as fair are critical to developing trust, and demonstrating respect.

Accountability

As regulated professionals, occupational therapists are required to clearly demonstrate that they serve each client’s best interest. Accountability means we are responsible for our actions; we have an obligation to account for and to be able to explain our actions.

Transparency

Transparent practice requires full disclosure, which ensures integrity within the client-therapist relationship and requires clear, open and thorough communication. It is inappropriate to withhold information, intentionally or not, that may impact the client’s ability to become involved as an informed participant. We are responsible for ascertaining the nature and extent of information to be shared and with whom it needs to be shared. Transparency never substitutes for accountability – it supports it. While identifying the principles is important, understanding the weighting of them in any given situation is also critical. This is most often determined by the extent to which they are supported in law,
regulation or policy. The general hierarchy or weighting is as follows: legislation and regulation, standards and essential competencies of practice, practice guidelines, policies and procedures. The role of each of these is described below.

Legislation and Regulation

Legislation is determined by elected representatives to government and is intended to represent the public interest. Regulations are also approved by government and must be consistent with the intent of the legislation they define. While it is clear that one must abide by the laws and regulations that apply in the situation, it is also important to remember that there is always the need for interpretation and the use of judgement when applying these rules. Case law, sometimes called common law or judge-made law, often helps to define the intent of these laws and may serve as an additional guide for interpretation.

There are many laws that govern the practice of health professionals. Some apply broadly, such as the Health Care Consent Act, 1996, the Regulated Health Professions Act, 1991, and the Personal Health Information Protection Act, 2004 and others are more specific to the type of practice or population served, such as the Mental Health Act, 1990, Child and Family Services Act, 1990 or Insurance Act, 1990 (see page 17 for further references).

Standards of Practice/Essential Competencies

Standards of practice include the essential competencies (knowledge, skills, judgement, and behaviours) that define the profession and define the generally accepted level of practice for the profession. Although they are not established as regulation, the Standards are supported in regulation. It is considered professional misconduct not to practice according to the standards of the profession. It is also an essential competency to apply the standards within one’s practice. Standards published by the College attempt to reflect the commonly recognized and generally accepted practice of occupational therapists in Ontario. For this reason, it is important to remain aware of both the contents of the published standards of practice and follow the common practice of OT colleagues as well as current research and published findings and evidence within OT practice. All the Standards of Practice and the Essential Competencies of Practice for Occupational Therapists in Canada are available at www.coto.org.

The specific Standards of Practice most relevant to ethical decision-making are: Standards for Professional Boundaries, Standards for Consent, Standards for Prevention of Sexual Abuse, and
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Standards for Prevention and Management of Conflict of Interest. Other standards may apply, and all are available at www.coto.org.

Practice Guidelines, Policies and Procedures

The College publishes Practice Guidelines that provide detailed information on specific topics that represent current best practices and are meant to support prudent practice. Institutions and organizations may establish policies and procedures that provide further guidance for specific situations. Similar to practice guidelines they generally articulate a position and provide direction to achieve the desired result.

Policies and procedures may be established by individual employers, agencies or institutions, and clarify process in specific situations.

Case Study: Working Through the Decision-Making Framework

The following scenario will help to demonstrate how the decision-making framework outlined on page 5 can assist in considering the applicable principles of practice and determining some reasonable options:

You are an occupational therapist who works in the community and you have received a referral to assess a 72-year-old man who lives with his wife Elana. You are informed that Thom has had a recent myocardial infarction and you are asked to complete an assessment and provide an appropriate program to support his return home. Upon assessment, you notice that he may have some visual deficits unrelated to his cardiac condition, and after further visual screening you determine he has visual deficits. During the assessment, Thom informs you that he drives Elana to her voluntary work at the local hospice once a week. You are concerned that he should not be driving and that he poses a danger to himself, Elana, and others in general by getting behind the wheel. You tell Thom about your concern and he assures you that his vision is fine and he has absolutely no trouble driving. He states it is just a 10-minute drive each way. Elana does not drive and this is one of the few things he is able to do to help her maintain her voluntary role which has been very important since she retired two years ago. He also tells you that his doctor knows he is driving and has no concerns so you really must not worry. You leave the assessment feeling uneasy and uncertain about what you should do next.

Step One: Describe the Situation
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You have received a referral with a request to assess and treat Thom. There is limited direction or background provided. You have identified visual deficits while assessing overall functional performance. You have also identified that Thom engages in an activity (driving) that you believe is unsafe for him and others given his visual difficulties.

Thom’s wife, Elana, is obviously aware he is driving and allows him to take her out regularly. Thom’s physician is also reportedly aware about the driving and isn’t concerned. You are concerned he may have an accident and harm or even kill himself or others as a result of his decision to drive. You don’t know if you could be held responsible in some part because you know he shouldn’t be driving.

The issue is whether or not to act on the safety concern. To take action would go against Thom’s wishes, yet you believe you not only have an obligation to ensure his safety, but that of Elana and other members of the public as well.

Step Two: Identify the Principles Related to the Situation

You must take into account the meaning of the situation and its many dimensions for Thom. Even where there may be no simple good solution, striving to understand Thom’s own response to the situation – the meaning it has for him – will help to ensure that you carry out your choice in a respectful way.

Respect for autonomy: You must maintain client confidentiality by only ever sharing information with consent, except where legally obliged to do otherwise. It is considered professional misconduct to share personal information without the consent of the client or the legal authority to do so. Thom has not consented in this case. It is only appropriate to release information if there is a legal requirement or authority to do so. Also related to this principle, Thom needs to be given sufficient information to understand what you are proposing and what the risks and alternatives are with respect to agreeing or not agreeing with the plan.

Collaboration and communication: Once you have made your decision about the course of action you will choose, you engage in a conversation with Thom – in an attempt to help him understand your concerns. Aiming to work in collaboration with your clients will promote respect. The principles of honesty and transparency enter the picture here, too – if your communication is honest and actions transparent, there is a greater likelihood of promoting trust.

Accountability: You are responsible for your actions and are expected to act in Thom’s best interests. You are also expected to act in accordance with relevant legislation, regulations and the standards of the profession, using the knowledge, skill and judgement reasonably expected of an OT. You have an obligation to ensure Thom’s safety and, as a recognized health professional, the safety of the public.
Step Three: Identify the Relevant Resources to Assist with Decision-Making

It can be a challenge just to determine which resources to refer to. The hierarchy described earlier can provide some direction. Adherence to any legislation, regulations or other legal requirements is expected and therefore identifying such information is a good place to start. With respect to legislation in this scenario, the *Highway Traffic Act* has some relevancy. It is important for you to understand whether or not you have a duty or requirement to report your concerns under this legislation. In fact the Act only requires *medical practitioners* to report to the Registrar of Motor Vehicles such information as the client’s name, address and medical condition if the medical practitioner believes it is dangerous for the client to operate a motor vehicle. Therefore this legislation does not provide you with the legislative requirement to release information without consent. It does however clarify that the physician is required to report the concern (assuming he or she believes there is concern about driving as a result of the client’s medical status).

Having identified confidentiality as one of the issues in this case, it is also important to determine if there is any privacy legislation that addresses this issue. Ontario’s *Personal Health Information Protection Act, 2004* supports the protection of client confidentiality. It requires Thom’s consent in order to release information, except in some situations including when there is concern of serious risk of harm.

Another resource that may provide a type of legal authority to release information is referred to as common or judge-made law. There is common law related to duty to warn. Given that most OTs will not be readily familiar with common law, it may be necessary to access a legal representative to assist with both identifying and understanding this type of information. Generally speaking, duty to warn involves a judgement about the nature or extent of potential risk, the probability or predictability of the behaviour causing the risk and the ability to identify the person(s) at risk. If there is sufficient risk of harm, then the duty to warn serves as the legal authority to release information.

The next step is to consider if there are any College Standards or Guidelines that apply to this situation. For example, further guidance related to Consent may be found in the Standards for Consent, as well, the Standards for Occupational Therapy Assessment may also be helpful. For example, the Standards for Consent provide expectations that the OT will ensure that the client understands the proposed course of action and the implications thereof. Also, the Standard outlines the process for managing the client’s withdrawal of consent. In this case, Thom will have initially granted you consent for the assessment, but then might, upon hearing the implications of possibly sharing the concerns about his driving, may choose to withdraw this consent. The Standards for Occupational Therapy Assessments provide expectations that you will be competent to provide the services. For example, in this scenario you may want to consider if the vision screening used in the initial assessment provides sufficient evidence to allow you to make a conclusive decision about the client’s ability to drive safely. Do you know if the assessment is valid and reliable? Would it be sufficient to raise reasonable concern about driving? What is your own knowledge base in this area of practice? Where can you find more information about reliable driving safety assessments?
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Step Four: Consider if You Need Further Information or Clarification

At this stage in the process it is helpful to determine if more information would be helpful. Consider if you have missed any factors that will impact on the decision. As stated in the Position Statement On the Interpretation of the Controlled Act of Communicating a Diagnosis, OTs often play an important role in collecting and interpreting data that contributes to and may confirm or lead to confirmation of a diagnosis. When a therapist is alerted through an assessment, to signs or symptoms that are suggestive of a disease or disorder, it is important to consider the need for a diagnostic practitioner to be involved (in this case perhaps an optometrist or ophthalmologist). In addition, you may consider seeking recommended approaches for discussing driving safety that might help foster deeper reflection by Thom on how safe he is to drive? The fact that most accidents happen within a few kilometres from home might be important to share with Thom. You may also ask if he would feel safe driving with his five-year-old granddaughter in the car or when she is in a stroller on the sidewalk nearby. It may be useful to contact someone more familiar with these discussions and to familiarize yourself with the services available in the area to support people who can no longer drive.

In these situations, the College would expect the therapist to make the client aware of the significance of the finding and recommend the appropriate action, including referral to another health professional.

Step Five: Identify the Options

Once you have sufficient information, try to consider at least two different ways of dealing with the situation. In this case, any of the following options could be considered:

1. Do nothing about the driving and carry on with intervention specific to the referral.
2. Depending on your expected future involvement with Thom’s treatment for other needs, you may choose to raise the topic again in the very near future and employ some of the recommendations you explore in the meantime.
3. Alert another source about the safety concern. This could include:
   a. a family member (such as his spouse)
   b. the treating physician
   c. the Ministry of Transportation or police.
4. Refer to another source for further assessment:
   a. Driving Assessment Centre
   b. Optometrist or Ophthalmologist.

You may leave it at that point or wait for the results and then inform or alert another source (#3) if it is necessary.
Step Six: Choose the Best Option

1. Do nothing about the driving and carry on with intervention specific to the referral. This option places considerable weight on the principles of client-centred practice and autonomy. On the positive side, it allows you to respect Thom’s wishes. As well, Thom’s own knowledge and expertise about his condition is valued. In choosing to do nothing, you would need to feel comfortable that there isn’t sufficient risk of harm to support a duty to warn. It is true that everyone accepts some risk when getting into a car. This option may also be reasonable if you believe the visual screen results are unreliable.

The negative aspect of this option is the fact that you did screen further for visual deficits and that Thom performed poorly. You may have an obligation to refer Thom to another professional (see option 4).

2. Raise the topic in the near future and employ some of the recommendations in the meantime. Approaching the issue again after gaining further recommendations from a more experienced colleague may be a good compromise when you are not adequately convinced by the assessments you have done that were not specific to driving. By explaining to Thom that some further assessments might be wise, assisting him with understanding the gravity of potentially unsafe driving and gaining his consent to carry out some other evaluations, you are promoting the values of respect by engaging in collaboration working, and the value of trust by following the principles of honesty and transparency with regard to your concerns and intentions.

3. Alert another source about the safety concern. Alerting another source supports an obligation to ensure Thom’s safety and that of others. Other practitioners may have a different ability to assess or manage the risk of harm. For example, if you alerted the physician, he or she may be able to confirm there is a medical concern that makes it dangerous for Thom to drive. The physician can and must then report to the Ministry of Transportation, with or without client consent. By alerting the physician you may also be acting within the consent granted to communicate with another member of the health care team.

Family members may also be able to support your efforts to convey concern, however their involvement is not always welcome, and the down side of this option lies with the risk of Thom claiming there was a breach of confidentiality. You would have to demonstrate sufficient reason to have acted against Thom’s wishes and instead on a duty to warn.

4. Refer to another source for further assessment. This option may be seen as an intermediate step with that of alerting someone else. Instead of reporting your concerns about driving immediately, you may choose to make a recommendation for further assessment of Thom’s vision. He may appreciate the opportunity to act on the recommendation on his own. This process may also allow for some negotiation to explore the issue further and then if Thom continues to disregard identified concerns, you or others involved will have sufficient evidence to proceed with a duty to warn.
Step Seven: Take Action

Select an option or set of options that you believe will offer the best approach to the situation, given the relevant principles and the full information you have of the situation. Consider how you will carry out the chosen option – this is equally important to what you do. It is entirely possible to do the right thing in the wrong manner. Remember to document your decision and rationale. If the process you followed is called into question in the future, you may not remember your reasoning unless you write it down.

Step Eight: Evaluate the Decision

You may know immediately if your decision was right or it may be some time in the future. Regardless, it is important to reflect on the process:

- How comfortable do you feel that you chose the best option?
- How well did you carry out your decision? Did you manage to do the right thing in a good way?
- What was the impact of your decision on those involved?
- Did you achieve the expected outcome?
- Is the situation adequately resolved, or is it necessary to consider another option?
- Would you make the same decision again, or do something differently?

Remember that the most challenging decisions are often the result of dilemmas that involve ethical issues and often do not have one correct response. While the outcome is the focus of the decision, being able to explain the rationale for it may be just as important.

5. Is there anything in your practice that needs to be adjusted now or in the future?

Sometimes a policy change or development of a procedure can assist you to prevent or manage situations in the future.

6. Are there any amends or reparations that need to be made?

If the incorrect decision was made and harm was done, perhaps there are steps that need to be taken to make things right again. In addition, an apology may be warranted and can be a sign of empathy, compassion and caring.

This worksheet has been provided as a template for working through decisions in your practice. Detach and make copies as required.
Conscious Decision-Making Worksheet

Step One: Describe the situation. Ask yourself the following questions:

1. What are the facts of the situation?
2. What is the scope of the referral?
3. Who is the client?
4. Who are the other stakeholders?
5. What is the underlying issue(s)?

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Step Two: Identify the Principles related to the situation.

These include, but are not limited to: client-centred practice; respect for autonomy and collaboration and communication (those principles promoting the value of respect); and honesty; fairness; accountability and transparency (all promoting the value of trust).
Step Three: Identify the relevant resources to assist with the decision-making.

1. Is there any relevant legislation, regulation(s) or guidelines?
2. Are there any individuals with expertise in the area?
3. Is there any relevant evidence (literature, research, best practice)?

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Step Four: Consider if you need further information or clarification.

1. Do you understand the intent of the legislation, standard or guideline?
2. What evidence exists (literature, research, best practice)?
3. Are there any missing facts? Have you identified the client’s best interests?
4. Are all of the stakeholders and their interests identified?

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Step Five: Identify the options.

Imagine a range of reasonable and realistic options to address the different aspects of the situation. Your plan may ultimately include a set of these options.

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Step Six: Choose the best option.

Apply the principles and any legislation, standard, guideline or policy that applies. Consider the expected outcome and potential impact of each option.

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Step Seven: Take action.

Select an option or set of options that you believe will offer the best approach to the situation, given the relevant principles. Decide on how best to take the action.

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Step Eight: Evaluate the decision.

1. How comfortable do you feel that you chose the best option?
2. What was the impact of your decision on those involved?
3. Did you achieve the expected outcome?
4. Would you make the same decision again, or do something differently?
5. Is there anything in your practice that needs to be adjusted now or in the future?
6. Are there any amends or reparations that need to be made?

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References


