



# Standards for the Prevention of Sexual Abuse

---

**Revised August 2018**

Reformatted July 2016

Revised May 2013

Originally Issued June 2007

## Introduction

---

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

The College of Occupational Therapists of Ontario has adopted a 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, professional boundaries, collaboration and communication. **Maintaining a professional relationship with a client is the only way an OT can remain objective when providing service and is necessary for the OT to ensure clients receive safe, effective, ethical care.** Any act of sexual abuse is a misuse of power and a betrayal of the client-therapist relationship. Accordingly, the College will hold all OTs 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.

As set out in the *Regulated Health Professions Act, 1991* (RHPA), it is considered sexual abuse and against the law for occupational therapists to have sexual relations with clients.

### What is sexual abuse?

Sexual abuse of a client by a regulated health professional is defined in the RHPA as:

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

The College uses the term “client” to refer to individuals who receive occupational therapy services from an OT. Client is used to reflect the client-centred principles of the profession. Under the RHPA, the term “patient” is used to refer to the recipient of health care service provided by a regulated health professional. For the purpose of these Standards, the terms “client” and “patient” have the same meaning.

Under the RHPA, for the purpose of sexual abuse, a “patient” is defined as:

- a) an individual who was a member’s patient within one year or such longer period of time as may be prescribed from the date on which the individual ceased to be the member’s patient, and
- b) an individual who is determined to be a patient in accordance with the criteria in any regulations

This means **a client remains a client for one year after the date the client-therapist relationship ended.**

In addition to the definition of patient, there are other criteria in regulations under the RHPA for determining whether an individual is a patient of a regulated health professional:

1. An individual is a patient of a member if there is direct interaction between the member and the individual and **ANY** of the following conditions are satisfied:
  - i. The member has, in respect of a health care service provided by the member to the individual, charged or received payment from the individual or a third party on behalf of the individual.
  - ii. The member has contributed to a health record or file for the individual.
  - iii. The individual has consented to the health care service recommended by the member.
  - iv. The member prescribed a drug for which a prescription is needed to the individual.
2. An individual is not a patient of a member if **ALL** of the following conditions are satisfied:
  - i. There is, at the time the member provides the health care services, a sexual relationship between the individual and the member.
  - ii. The member provided the health care service to the individual in emergency circumstances or in circumstances where the service is minor in nature.
  - iii. The member has taken reasonable steps to transfer the care of the individual to another member or there is no reasonable opportunity to transfer care to another member.

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 patient.

OTs 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 OT. The client is relying on the OT's clinical judgement and experience to address health-related issues, the OT knows the client's personal information and has the ability to influence the client's access to other resources and services. The impact of OT power and influence can be broad as the OT operates within a system where client information provided by an OT, in the form of documentation, for example, has the potential to influence the perceptions of other service providers. If an OT uses this position of authority to violate boundaries, this is an abuse of power. OTs are responsible for setting and managing boundaries to ensure that the trust a client has placed in the OT is not betrayed.

*OTs 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 behavior or sexual abuse.*

---

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

The values and principles outlined in the College's Code of Ethics provide a framework for the expectations of the relationships between occupational therapists and their clients. Occupational therapists (OTs) can look to these values and principles in their efforts to promote appropriate professional relationships and prevent sexual abuse. OTs must also refer to the Standards for Professional Boundaries which outline additional expectations for the preservation of appropriate boundaries between the OT and the client in all circumstances.

The College will formally investigate all sexual abuse complaints or reports made against an OT. When warranted, appropriate disciplinary action will be taken against the OT pursuant to the legislation and standards of the profession. Disciplinary action may include mandatory revocation of the OT's certificate of registration meaning the OT will no longer be entitled to practice.

## Application of the Standards for the Prevention of Sexual Abuse

The following **standards** describe the minimum expectation for OTs in the prevention of sexual abuse.

- 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 OT determines that a particular performance indicator has less relevance due to client factors and/or environmental factors. Such situations may call for the OT to seek further clarification.
- It is expected that OTs will always use their clinical judgement to determine how to best meet client needs in accordance with the standards of the profession.
- It is also expected that OTs will be able to provide justification for any variations from the standard.

Pursuant to the *Regulated Health Professions Act, 1991* (RHPA), the College is authorized to make regulations in relation to professional practice. Ontario Regulation 95/07: Professional Misconduct,

## Standards for the Prevention of Sexual Abuse

establishes that “contravening, by act or omission, a standard of practice of the profession or failing to maintain a standard of the profession,” constitutes ground for professional misconduct.

College publications contain practice parameters and standards which should be considered by all Ontario OTs in the care of their clients and in the practice of the profession. College standards are developed in consultation with OTs and describe current professional expectations. College standards may be used by the College or other bodies in determining whether appropriate standards of practice and professional responsibilities have been maintained.

### Overview of the Standards for the Prevention of Sexual Abuse

1. Establishing and Maintaining Professional Boundaries
2. Consent for Touching
3. Respecting Privacy & Dignity
4. No Treatment of Spouses
5. Mandatory Reporting
6. Consequences of Sexual Abuse – Mandatory Revocation

### Standard 1 – Establishing and Maintaining Professional Boundaries

This standard describes the requirement for OTs to maintain professional boundaries with their clients for the purpose of preventing sexual abuse. In this context, the occurrence of sexual abuse is limited to the direct relationship between the OT and the client. However, OTs must ensure they maintain professional boundaries not only with the client but also with individuals with whom the client has a significant personal relationship such as a substitute decision-maker or parent. Expectations regarding OTs responsibilities for managing these relationships are outlined in the Standards for Professional Boundaries.

#### Standard 1

*An occupational therapist will take full responsibility to establish and maintain professional boundaries with clients at all times.*

#### Performance Indicators

An OT will:

---

- 1.1** Never sexually abuse a client or engage in any sexually abusive behaviours including:
- Sexual intercourse or other forms of physical sexual relations between the OT and the client;
  - Touching, of a sexual nature, of the patient by the OT; or
  - Behaviour or remarks of a sexual nature by the OT towards the client;
- 
- 1.2** Not engage in sexual relations or enter into a sexual relationship with a **former** client, 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.
- 
- 1.3** Even after one year has elapsed since the client-therapist relationship ended, **never** engage in sexual relations or a sexual relationship with a former client in any of the following circumstances where:
- the client is especially vulnerable resulting in an increased power imbalance in the client-therapist relationship in favour of the OT; or
  - the client-therapist relationship involved intensive interventions based on relevant factors such as the 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; or
  - the client's occupational therapy involved psychotherapy; or
  - the client has ongoing needs related to the occupational therapy services provided.
- 
- 1.4** Understand the power imbalance that exists in favour of the OT in all client-therapist relationships;
- 
- 1.5** Identify the potential risks within their practice in relation to professional relationships and implement strategies for the management of professional boundaries;
- 
- 1.6** Recognize their own personal beliefs, values, biases and their position of influence with clients;
- 
- 1.7** 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 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, gender, or language on maintaining professional boundaries and preventing sexual abuse.

---

## Standard 4 – No Treatment of Spouses

Under the RHPA, spouses are not exempt from the definition of patient and therefore an OT is not permitted to treat their spouse as this would be considered sexual abuse.

Spouse is defined as:

- a) a person who is the member's spouse as defined in section 1 of the *Family Law Act*, or
- b) a person who has lived with the member in a conjugal relationship outside of marriage continuously for a period of not less than three years.

---

### Standard 4

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

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

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

## Standard 5 - Mandatory Reports

Under the RHPA, a mandatory report must be made by a regulated health professional who, in the course of practising his or her profession, acquires information giving 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. OTs are

subject to a fine of not more than \$50,000 for failing to make this mandatory report. Facilities who fail to 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.

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

---

### Standard 5

*An occupational therapist will make a mandatory report if they have reason to believe that another regulated health professional sexually abused a client.*

#### Performance Indicators

---

An occupational therapist will:

- 
- |            |   |
|------------|---|
| <b>5.1</b> | Make a written report to the college of the regulated health professional believed to have sexually abused a client within 30 days of becoming aware of the information, or, immediately, if the OT believes the abuser will continue to abuse the client or other clients;   |
| <b>5.2</b> | Provide information to the client about the obligation for a mandatory report if the OT becomes aware of the possible sexual abuse through a disclosure made by a client;   |
| <b>5.3</b> | Obtain the client's written consent to disclose the client's name to the regulator, if the OT became aware of the alleged sexual abuse from the client;<br><br>OR<br><br>Withhold the name of the client from the mandatory report if consent for disclosure is not obtained from the client;   |
| <b>5.4</b> | If becoming aware of the possible abuse by a regulated health professional while providing psychotherapy to that professional, make a report and provide an opinion concerning whether or not the abusing practitioner may sexually abuse clients in the future. The OT will also make a report if they stop providing psychotherapy to the abusing professional. |
-

## Consequences Related to Sexual Abuse of a Client

A discipline hearing is the most serious proceeding that a regulated health professional can face under the RHPA and carries with it the risk of loss of registration. The RHPA sets out the penalties for an OT who has been found guilty of committing an act of professional misconduct by sexually abusing a client. If a panel of the Discipline Committee finds an OT has committed an act of professional misconduct by sexually abusing a patient, the panel shall do the following:

1. Reprimand the OT. A record of the reprimand is to be placed on the Register and be made available to the public.
2. Suspend the OT's certificate of registration if the sexual abuse does not consist of or include conduct that would result in revocation of the OT's certificate of registration.
3. Revoke the OT'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 member by, or in the presence of, the patient.
  - iv. Masturbation of the patient by the member.
  - v. Encouraging the patient to masturbate in the presence of the member.
  - 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 an act of professional misconduct by an OT is not specifically addressed in the legislative provisions pertaining to sexual abuse, depending on the seriousness of the substantiated allegation, under the RHPA a panel of the Discipline Committee may also make any one or more of the following orders:

1. Revoke the member's certificate of registration.
2. Suspend the member's certificate of registration for a specified period of time.
3. Impose specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time.
4. Require the member to appear before the panel to be reprimanded.
5. Require the member to pay a fine of not more than \$35,000 to the Minister of Finance.
- 5.1 If the act of professional misconduct was the sexual abuse of a patient, requiring the member to reimburse the College for funding provided for that patient under the program required under section 85.7.
- 5.2 If the panel makes an order under paragraph 5.1, requiring the member to post security acceptable to the College to guarantee the payment of any amounts the member may be required to reimburse under the order under paragraph 5.1. 1991, c. 18, Sched. 2, s. 51 (2); 1993, c. 37, s. 14 (2).

College of Occupational Therapists of Ontario  
20 Bay St, Suite 900, PO Box 78, Toronto, ON M5J 2N8  
T 416.214.1177 • 1.800.890.6570 F 416.214.1173  
[www.coto.org](http://www.coto.org)

Information contained in this document is the property of the College of Occupational Therapists of Ontario and cannot be reproduced in part or whole without written permission.  
© 2018, College of Occupational Therapists of Ontario  
All rights reserved.