



College of Occupational
Therapists of Ontario

PRESCRIBED REGULATORY EDUCATION PROGRAM: CONFLICT OF INTEREST

SECTION 1: INTRODUCTION	1
Learning objectives	2
Reflective Practice Exercise 1	3
An overview of conflict of interest	4
a) Types of conflict of interest	5
b) How a conflict of interest differs from a boundary crossing	5
c) An OT's responsibilities	6
SECTION 2: RECOGNIZING CONFLICT OF INTEREST	6
SECTION 3: PREVENTING CONFLICT OF INTEREST	8
SECTION 4: MANAGING CONFLICT OF INTEREST	9
SECTION 5: COMMON CONFLICTS OF INTEREST	10
Personal benefit from a client	10
Dual or multiple relationships with a client	11
Self-referral	11
Vendor relations	12
SECTION 6: CONFLICT OF INTEREST IN RESEARCH, AND QUALITY ASSURANCE AND/OR IMPROVEMENT STUDIES	13
SECTION 7: CONFLICT OF INTEREST WITH ORGANIZATIONAL ACTIVITIES	14
SECTION 8: PRACTICE SCENARIOS AND QUESTIONS	16
APPENDICES	
A. References	23
B. Answers to Section 8's practice scenario questions	24
C. Reflective Practice Exercise 2	37

PREP MODULE: CONFLICT OF INTEREST

Store this PREP module in your Professional Portfolio and complete the Reflective Practice Exercise 2 online in the Practice Development Portal.

Use this workbook to review the module independently or with colleagues then complete the Reflection Page online by accessing the e-learning module in the Practice Development Portal on the College website www.coto.org.

SECTION 1: INTRODUCTION

In May 2012, the Council of the College of Occupational Therapists of Ontario (the College) approved the *Standards for Prevention and Management of Conflict of Interest* (COTO, 2012). These standards address the occupational therapist's (OT's) minimum requirements in understanding and managing conflict of interest issues. Rather than being prescriptive, it outlines the process for anticipating, identifying, preventing and managing these issues.

Every year, numerous OTs contact the College to ask about their professional obligation in situations they think might involve a conflict of interest. This PREP module, which is based on *Standards for Prevention and Management of Conflict of Interest* (COTO, 2012), can help you learn how to anticipate a conflict of interest and effectively manage it.

Section 1 sets out the module's learning objectives and provides an overview of conflict of interest. This section includes Reflective Practice Exercise 1, which you will need to complete independently prior to proceeding with the remainder of the module.

Section 2 guides OTs in learning how to anticipate and recognize actual, potential and perceived conflicts of interest.

Section 3 discusses the deliberate, proactive steps OTs can take to prevent a conflict of interest.

Section 4 outlines how OTs can fulfil their responsibility to manage a conflict of interest issue once it has been identified. Not all conflict of interest situations can be avoided.

CONFLICT OF INTEREST

Section 5 addresses four areas in which conflicts of interest commonly arise in occupational therapy practice.

Section 6 alerts OTs to the potential for conflict of interest in research and quality assurance and/or improvement activities.

Section 7 identifies possible conflicts of interest in organizational activities. This section discusses potential conflicts that could occur when an OT becomes a member of College Council or a College Committee, or the administrative body of another organization.

Section 8 contains five practice scenarios that reflect the content of the online e-learning module. Each scenario is followed by questions designed to build knowledge and understanding of conflict of interest issues. This section includes a reflective practice exercise.

The Appendices contain references to related documents, answers to the practice scenario questions in Section 8, as well as Reflective Practice Exercise 2.

Learning objectives

By completing this module, you will be able to:

- enhance your knowledge of what defines conflict of interest;
- demonstrate the ability to distinguish between potential, perceived and actual conflict of interest;
- anticipate and identify conflict of interest;
- identify and apply strategies to prevent actual, potential and perceived conflicts of interest;
- initiate steps to manage and mitigate unavoidable conflict of interest issues; and
- articulate the impact of conflict of interest on clients, stakeholders and ethical practice.

This module is organized to support effective learning and is based on adult learning principles. To maximize the learning benefits, start at the beginning and work through the workbook. Do not jump from section to section; instead, meet the milestones in the following order:

1. Complete Reflective Practice Exercise 1.
2. Review the core content of the PREP module.
3. Consider each practice scenario and then answer the scenario questions.
4. Compare your answers with those in Appendix B.
5. Complete Reflective Practice Exercise 2 online.

REFLECTIVE PRACTICE EXERCISE 1

Assess your understanding of conflict of interest issues by independently answering the following questions. Base your responses on your current beliefs, values and practice experiences. While this reflection can occur in a group setting, it is intended for your personal learning. After completing the module, evaluate your learning by reflecting on these responses. The College does not require you to submit these answers but recommends that you retain the answers for future reference.

Answer **Yes**, **No** or **Sometimes** to the following questions.

- Conflict of interest exists in my practice.
YES **NO** **SOMETIMES**
- It is alright to accept a client's gift if I explain to the client that receiving it will not affect the relationship.
YES **NO** **SOMETIMES**
- It is OK to accept a client's suggestion that her partner spread the good word about my practice.
YES **NO** **SOMETIMES**
- It is acceptable to refer clients who I have treated in hospital to my practice for follow up.
YES **NO** **SOMETIMES**
- It is OK to lend my name to endorse a supplier whose products I like and use.
YES **NO** **SOMETIMES**
- It is alright to accept a monetary loan from a supplier with whom I have a successful relationship.
YES **NO** **SOMETIMES**
- It is not necessary to disclose my interests as a researcher and therapist when I invite a client to take part in my research project.
YES **NO** **SOMETIMES**
- If I sit on a College committee, I must remove myself from the decision-making process when the Committee is considering a practice partner's professional performance.
YES **NO** **SOMETIMES**
- It is acceptable to recommend a supplier's products to a client I am assessing.
YES **NO** **SOMETIMES**
- Since I understand and am comfortable with the concept of conflict of interest, I do not need a written conflict of interest policy in my practice.
YES **NO** **SOMETIMES**

CONFLICT OF INTEREST

Reflect on the following statements to identify your values and learning needs.

1. Types of conflict of interest include

2. The difference between a conflict of interest and a boundary crossing or violation is

3. The differences between actual, potential and perceived conflicts of interest are

4. If I am concerned that there is a potential conflict of interest, I would

5. If I notice a colleague or peer engaging in a conflict of interest situation, I would

6. Warnings signs of an emerging conflict of interest include

7. An example of a perceived conflict of interest in my practice setting would be

AN OVERVIEW OF CONFLICT OF INTEREST

There is the potential for conflict of interest in every practice setting. Conflict of interest, while a familiar concept, can be easy to misinterpret and mismanage. Furthermore, subtle circumstances can cause a conflict that cannot be clearly resolved. Adding to the complexity is that every OT has a slightly different appreciation of conflict of interest, leading to different approaches and outcomes. Therefore, it is essential for OTs to understand conflict of interest, be able to anticipate and recognize it, and take the appropriate steps to prevent and/or manage it.

In occupational therapy practice, conflict of interest is said to occur when a reasonable person can see the OT's relationship with another individual – such as a client, business associate, friend or relative – as affecting the OT's professional judgment and/or ability to act in the individual's best interests. When a conflict of interest arises, it can jeopardize the OT's ability to fully function in a professional capacity because the conflict creates a dynamic in which the OT is compromised by a non-professional situation or a competing duty. A client who identifies that his or her OT has a conflict of interest can be especially affected; the client can lose confidence, trust and respect for the OT's integrity and professional focus.

Conflicts of interest can arise in a variety of circumstances and be a fluid process, evolving rather than remaining static. Perhaps the most commonly identified conflict of interest situation occurs in a monetary context; for example, a client loans money to his or her OT. In this situation, the OT's financial commitment to the client may lead the OT to give preferential treatment to that client.

Conflict of interest can also occur in relationships with suppliers, students, peers, supervisors, the College and the public. It can occur in the context of gift giving or receiving, self-referral, self-dealing, academic or quality assurance research, and in the course of the OT's activities with other organizations, such as a hospital board.

a) Types of conflict of interest

While conflict of interest situations vary in degree and complexity, they can all be defined as either potential, perceived or actual.

An actual conflict of interest refers to an action that the OT has done that has resulted in a conflict of interest situation.

An actual conflict of interest would arise when, for example, an OT who works in a hospital agrees to promote a supplier's products in return for personal monetary gain. The OT's commitment to professional practice and the clients' best interest is compromised by his or her obligation to the supplier.

A potential conflict of interest occurs when a neutral, informed person would reasonably conclude that, given the situation, the OT may fail to fulfil his or her professional obligation to act in the client's best interests.

Consider a vendor offering you a free walker to give to a client. The potential conflict of interest relates to your possible obligation to both the vendor and your client. While receiving the walker may make it easier for you, you must consider whether accepting it is giving preferential treatment to the vendor and creating future expectations of him or her. You also need to consider that while the free walker will benefit your client in the short term, it may limit the client's knowledge of available walkers and vendors.

A perceived conflict of interest occurs when a neutral, informed person would reasonably conclude that the OT has been improperly influenced, even if this is not the case.

Imagine an OT standing outside the hospital cafeteria speaking with the son of a client. The son offers to treat the OT to lunch, and a colleague overhears this offer. While the situation may not involve a conflict of interest, if the colleague is concerned that there is more than a professional relationship between the son and OT, it is a perceived conflict of interest.

b) How a conflict of interest differs from a boundary crossing

A boundary is crossed or violated when an OT initiates a behaviour or allows a behaviour to continue that compromises the OT's professional relationship with his or her client, and the relationship changes from therapeutic to personal.

For example, after accepting a new client, you may learn that the client is a relative of a close friend, thus bringing into question whether your loyalty to the friend will influence your ability to act in a fully professional, neutral manner with the client. This situation illustrates a boundary issue.

Boundary crossings and violations are always a conflict of interest. A conflict of interest, though, involves a gain or benefit that an OT might incur, and the gain influences the OT's professional judgment and ability to act in the client's best interests. While there may be some conflicts of interest that are also boundary crossings, there are many situations in which conflict of interest does not involve a boundary crossing.

CONFLICT OF INTEREST

c) An OT's responsibilities

Any circumstance in which there is the potential for or the presence of a conflict of interest requires the OT's serious attention. It is the OT's responsibility to anticipate, recognize and prevent conflicts of interest. When a conflicting interest emerges, it is the OT's responsibility to manage it.

OTs have both a legal and ethical duty to avoid conflicts of interest in professional practice. Under the *Regulated Health Professions Act* (RHPA, 1991) as amended, OTs are considered self-regulated, autonomous practitioners. As such, OTs are expected to practise in accordance with the profession's established standards and principles of practice. They are required to know and apply the standards with consistency, and failure to do so can result in disciplinary action.

The principles of conflict of interest are supported by and further defined in the College's *Standards for Prevention and Management of Conflict of Interest* (COTO, 2012) and Professional Misconduct Regulation, O. Reg. 95/07. The misconduct regulation states that professional misconduct includes "contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession." It also states that it is professional misconduct if an OT is "practising the profession while the member is in a conflict of interest." Additional clauses also apply (see Regulation clauses 48 and 49¹) to appreciate the nature and management of conflict of interest, as it is incumbent on the OT to become fully familiar with these documents and apply their principles in practice.

Of equal or even more significance is the expectation of the public, including clients, that OTs will avoid conflict of interest situations. Through the RHPA, the public has given regulated health professionals the right to self-govern. In exchange, the public expects them to conduct themselves with professionalism, integrity, transparency and accountability. Conflict of interest situations in occupational therapy practice can cause the health care system, the public, the College and other Registrants to question the profession's integrity.

Because an OT is in a position of power and trust with respect to his or her clients, it falls to the OT alone to take responsibility for anticipating, recognizing, preventing and managing conflicts of interest that arise in professional practice. The OT is expected to use professional judgment and apply conscious decision-making practices (refer to *Conscious Decision-Making in Occupational Therapy Practice* (COTO, 2012), for more information). Any conflict of interest has the potential to undermine the OT-client relationship, the integrity of the OT and the client's trust in the OT. The consent of a client or another individual to a potential or actual conflict of interest situation is *not* a defence for the OT's actions.

SECTION 2: RECOGNIZING CONFLICT OF INTEREST

It is essential for OTs to be able to anticipate and recognize potential, perceived and actual conflicts of interest. One barrier to recognizing conflict of interest is the OT's self-interest in the situation. Self-interest can be so powerful, it can make the OT lose objectivity in assessing the situation. Therefore, it is

¹ Clause 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."
Clause 49 "Engaging in conduct that would reasonably be regarded by members as conduct unbecoming an occupational therapist."

important to proactively recognize risks and set policies to avoid conflicting interests. To recognize, prevent and manage conflicts of interest, consider the following questions.

- Are there any inherent risks for a conflict of interest in my practice?
- How do I receive referrals for clients?
- How do I promote my business or practice?
- Do I work with vendors?
- Have I set up policies to prevent conflicts of interest?

To recognize a conflict of interest, ask this fundamental question: Am I or could I be in a conflict of interest that affects my professional judgment and/or compromises my ability to act in the client's best interests?

In the process of determining the parameters of your role, identify your own self-interest as well as the competing interests of different stakeholders.

An OT needs to develop and employ strategies to recognize conflict of interest. One strategy is to identify signals that there may be a conflict of interest by asking the following questions.

- Will this situation affect the function or presentation of my professional practice or the occupational therapy profession in general?
- Will this situation affect my ability to be impartial and neutral in my professional relationship with this client?
- How will this situation influence my client's best interests?
- Is my relationship with the client starting to exceed the parameters of the therapeutic relationship to become a personal relationship?
- Will I receive a benefit that might influence my professional judgment?
- Does my approach to this situation cross over into my personal values or beliefs? If so, what values or beliefs are engaged? Do my values and beliefs negatively affect my professional obligations to my client and my client's best interests?
- Does my approach to this situation involve the client's personal values and beliefs? If so, what values and beliefs are engaged and in what way am I considering them? Are they influencing my professional obligations and the client's best interests?
- What are my interests in this situation? What are the client's interests? What are the interests of others? If their interests are different from mine, is it a problem?
- What will others think of my involvement in this situation? Will this situation alter my client's perception of my professionalism? What would a colleague think? How would a neutral, informed observer react? Would I be comfortable with this situation becoming public knowledge?

CONFLICT OF INTEREST

- Is something about this situation making me uneasy or uncertain about its appropriateness? What is making me uneasy?

OTs should engage in ongoing self-monitoring and reflection. Self-monitoring involves the active, conscious exercise of applying strategies for recognizing conflict of interest. Reflecting on lessons you have learned will strengthen your capacity to anticipate and recognize future conflict of interest situations.

You can use the above questions to create a decision tree to assist you in self-monitoring and reflection. You could also use them to develop a conflict of interest policy.

Scenario

While having her hair cut, Joan tells the stylist she is an OT at a private children's clinic. The stylist tells Joan that her daughter has Cerebral Palsy and discloses some of the challenges she is experiencing in accessing services. Joan recommends a few agencies that can help her. The conversation is casual, and Joan wants to point the stylist in the right direction. Joan gives the stylist her business card. The stylist offers not to charge for the haircut to thank Joan for her advice. The next day, the stylist and her daughter show up at Joan's clinic.

Joan should not, of course, accept the free haircut because accepting a financial benefit does not accord with professional practice. Joan's desire to use her professional knowledge in a helpful way is reasonable. Joan, though, may wish to reflect on this situation and consider establishing a policy that includes a clear process to follow should a similar situation arise in the future. While Joan may provide general information to an individual, she might consider prefacing it by stating that while she can provide basic background by laying out balanced service options, it is up to the individual to investigate them and make his or her own decision. By advising the individual in a neutral manner, Joan might have been able to avoid the expectations of OT service and therefore may have avoided the conflict of interest situation.

SECTION 3: PREVENTING CONFLICT OF INTEREST

It is incumbent on the OT to take deliberate, proactive steps to prevent conflict of interest situations, whether potential, perceived or actual. To prevent conflict of interest:

- remember that your primary role is to provide occupational therapy services;
- keep foremost the goal of providing services that treat clients fairly and equitably;
- understand that you must not use your position of trust for personal benefit;
- avoid activities that might be a conflict of interest, such as accepting a gift or another benefit;
- provide a transparent fee schedule when billing for services;
- ensure that information you possess is not used in a manner that benefits you or might compromise the best interests of your clients;

- know the rules and standards related to conflict of interest and apply them in an ongoing, consistent manner;
- seek assistance, when needed, to prevent a conflict of interest situation; and
- disclose to clients or others that a conflict of interest may arise and, when necessary, take steps to avoid or rectify the situation.

Scenario

Carlos has provided occupational therapy to Simi for two sessions. During the third session, Simi tells him she is a sales representative with a supplier of devices used in occupational therapy practice. Simi asks Carlos to make an appointment with her so she can show him the company's latest wheelchair.

A potential conflict of interest is apparent. If Carlos agrees to Simi's suggestion, he would be allowing a dual relationship to develop. Carlos would have a therapeutic relationship with Simi as his client and a professional relationship with her as a vendor. Carlos should immediately inform Simi that an OT must avoid a dual role with a client.

If Carlos is in a group practice that has a purchasing department or equipment committee, he might suggest that Simi contact them. Carlos might also advise these groups of the situation and consider letting him or her decide whether to use Simi's services.

SECTION 4: MANAGING CONFLICT OF INTEREST

Not all conflicts of interest can be avoided. If a conflict of interest situation is identified, the onus of managing it falls on the OT. The OT is obligated to address the problem expeditiously and limit any damage that may have been caused or may arise.

Managing a conflict of interest encompasses the values of trust and respect, which promote the principles of honesty, fairness, accountability and transparency. An OT, by ensuring his or her practice is free from conflict of interest, also maintains the principles of good practice and client-centredness, and recognizes the dignity, worth and individuality of each person.

If you become aware of a conflict of interest situation in your practice, take the necessary steps to mitigate the problem, including extricating yourself from the circumstance where appropriate. Disclose the presence and nature of the conflict to the client and those involved. If necessary, advise the client of his or her right to seek alternative occupational therapy services.

Fully document the issue, whether it is with a client or another individual. Include what occurred, how and why it occurred, and what steps you took to remedy the situation, as outlined in the *Standards for Record Keeping* (COTO, 2008). This documentation can constitute the basis of your rationale for managing the issue and may be needed at a later date. Evidence of good decision-making with respect to anticipating and recognizing a conflict of interest is demonstrated when an OT is able, after the fact, to provide a reasonable rationale for the steps he or she took to manage the situation.

CONFLICT OF INTEREST

Whether you are in sole practice, a member of a group practice or part of a team in a large institution, it is worthwhile to develop a written conflict of interest policy that outlines concrete guidelines for how to effectively manage various conflicts of interest. The very process of creating the policy will help you develop a deeper understanding of the nature of conflict of interest. Be sure to address specific types of conflict – such as client gifts and supplier incentives – and provide acceptable responses to such situations.

In situations in which the OT remains unsure as to whether a conflict of interest situation may be arising or has occurred, the appropriate response is to seek guidance. Consult a colleague, a manager/supervisor or the College's Practice Resource Service.

Scenario

You have been assigned an in-home assessment to determine if the client is entitled to attendant care benefits. Halfway through your assessment, both you and your client come to realize that the client is your husband's manager. The client says he is relieved you are a "friend" and makes it clear that he expects full attendant benefits. You know that if you do not finish the assessment, you will not be paid for your time. You also know there is talk of upcoming layoffs at your husband's workplace.

This is an example of an unavoidable conflict of interest. Standard Statement 3 states that an OT will "be proactive in effectively managing and mitigating an unavoidable conflict of interest." On identifying this situation, you must immediately explain that a conflict of interest exists, and that your professional obligations are compromised by the constraints of the client's expectations.² You should withdraw from providing services and arrange for the client to be referred to another OT. You need to document the situation, including all of the assessments you performed and your rationale for withdrawing.³

SECTION 5: COMMON CONFLICTS OF INTEREST

There is an endless variety of situations in which a conflict of interest can occur. Consequently, the OT should be ever alert to the potential for a conflict of interest in all aspects of professional practice. This section addresses four areas in which a conflict of interest commonly arises in occupational therapy practice.

Personal benefit from a client

A conflict of interest can occur when, during the course of professional practice, an OT receives some form of personal benefit from a client.

Receiving a personal benefit may conflict with an OT's responsibilities to the client or may improperly influence the OT's ability to act in the best interests of the client.

Likely the most common form of personal benefit is client gifts. Usually offered out of appreciation, the gift, if accepted, can constitute a boundary crossing, and in some cases much more. (Refer to *Standards for Professional Boundaries* (COTO, 2009)). Receiving a client's gift can also be defined in the context of a conflict of interest and, depending on the circumstances, can be characterized as an:

² Performance Indicator 3.2

³ Performance Indicator 3.2.3

- *actual* conflict of interest. Does the client expect some form of future reciprocation, such as preferential treatment?
- *potential* conflict of interest. While the gift may have been a benign offering of thanks, will it lead to future gift giving that will be difficult to manage?
- *perceived* conflict of interest. While the OT may decide to share the client gift with everyone in the practice, how does a new client watching from the waiting room perceive the OT accepting the gift?

Has a client offered you a gift? How did you manage the situation? Do you have a policy to guide you in managing gift giving?

Dual or multiple relationships with a client

Conflict of interest may arise in dual or multiple relationships with a client, such as in personal, social and/or financial relationships.

A dual relationship exists if an OT serves in the capacity of both OT and in one other relationship with the same client. In a multiple relationship, an OT has a therapeutic relationship with the client and more than one other relationship with the same client.

Dual or multiple relationships with a client may overlap with a boundary violation or crossing. The OT may find this conflict of interest situation affects his or her professional judgment and/or jeopardizes the client's best interests, as well as changes the relationship from therapeutic to personal. An example would be an OT who has a client who does the OT's tax returns. Have you found yourself in a situation such as this? How did or would you address it?

Dual or multiple relationships with a client compromise the OT's ability to remain solely dedicated to applying professional judgment in the therapeutic relationship. Address a dual or multiple relationship at the earliest opportunity, otherwise it may become increasingly difficult to extricate yourself from the situation.

OTs must take conscious steps to identify possible dual or multiple relationships. They need strategies and/or a policy in place for managing this conflict as it arises.

Self-referral

Self-referral occurs when an OT practising in one setting refers clients to him- or herself in another setting in which the OT has an interest in or a potential to gain any benefit.

Self-referral can occur when an OT in professional practice makes a referral that will ultimately provide additional financial benefit to the OT. This referral may constitute a potential, perceived or actual conflict of interest.

An example would be an OT referring a client he is treating in the hospital to his own practice once discharged. Not only is the referral a financial benefit to the OT, it may influence decisions about discharge and follow up care. Such decisions – for example, earlier discharge, linkage with resources – may not be in the client's best interests.

CONFLICT OF INTEREST

While OTs should not engage in self-referral, there may be instances in which self-referral cannot be avoided. For example, an OT may be the only OT in a small town, and could serve both the regional hospital and local community. In this instance, the OT should ensure that the situation is fully disclosed to the client and regional hospital. If the client cannot be provided with more appropriate options, the OT should be able to demonstrate that all other options for alternative client care have been investigated. The OT's efforts should then be documented; including that full disclosure to the client has taken place.

Vendor relations

Inherent in the practice of occupational therapy is the need to interact with vendors of ancillary goods and services. Clients expect OTs to be knowledgeable and able to provide information on products and services they might utilize. The necessity of business relationships with vendors, however, provides fertile ground for OTs to consciously or unknowingly enhance their own interests.

Close relationships with vendors can attract business interactions that lead to preferential treatment of suppliers or self-dealing. Self-dealing occurs when the OT is on both sides of the deal. It occurs when the OT is benefitting from both his or her own practice and the vendor's business.

Imagine you are an OT in private practice. You prescribe a wheelchair to a client, and you also work part-time as a consultant to the vendor of the wheelchair. With vendor relationships, you cannot underestimate the importance of ensuring that the therapeutic relationship remains central in decision-making. In upholding the OT-client relationship, the OT must evaluate if establishing a business relationship with a vendor will detract from his or her professional obligations.

An OT should only enter into a vendor relationship if the OT is satisfied that it will not interfere with his or her professional obligations to clients and their best interests. Even then, the OT should be prepared to discuss the nature of the OT's role in the vendor relationship with both the vendor and clients. The OT should also ensure the client is afforded all available options related to the vendor's services, so the client can make fully informed decisions. As well, the OT should document the nature of the vendor relationship and the steps he or she took before entering the relationship.

In your conflict of interest policy, it is wise to include appropriate responses to invitations to engage in a vendor relationship.

Scenario

Saul is an OT who just started private practice in home health. His spouse, Neil, owns a health care supply store. They have always believed that their two careers complement each other.

On Saul's first visit with a client, he determines that the client needs a number of assistive devices. The client expresses concern about the expense, explaining that she is on a fixed income. Saul explains how the devices can help her, but she remains reticent about the cost.

Saul is concerned that the client, by forgoing the assistive devices, may injure herself. He calls Neil and arranges for the client to purchase the devices from Neil's store at a discount. The client is appreciative and agrees to buy the devices from Neil.

Saul can be perceived as favouring, if not overtly favouring, his spouse's business. Notwithstanding Saul's altruism, he has financially endeared himself to the client, thereby potentially creating client expectations that are inappropriate in the OT-client relationship. These expectations will interfere with Saul's ability to objectively recommend appropriate equipment if Saul is influenced, consciously or unconsciously, by the anticipated benefit to his partner. It would have been prudent for Saul to either include Neil's services among other options, allowing the client to choose a vendor, or to exclude his services altogether.

An OT must refrain from brokering client discounts with individual vendors. To address the client's financial limitations, Saul should have looked into publicly funded resources to support the client's needs rather than to the generosity of any one supplier.

SECTION 6: CONFLICT OF INTEREST IN RESEARCH, AND QUALITY ASSURANCE AND/OR IMPROVEMENT STUDIES

In the course of professional practice, an OT may engage in academic or other research activities, or quality assurance and/or improvement studies. In these two distinct circumstances, clients may be involved as participants.

Research can be defined as the search for knowledge and new understandings or any systematic investigation using scientific methods.

Researchers often look for participants whose personal experience reflects the potential for data or insights helpful to the study. Such projects are subject to the review and approval of the research-supporting institution's research ethics board (REB). An REB will consider the ethics of the proposed research, including scientific validity, and whether it is socially responsible and defensible.

Even if the REB has approved the research, the OT must continue to be alert to the potential for conflict of interest. For example, the OT might interview a neighbour as part of her research on client preferences. The OT's personal relationship with the neighbour, though, may taint the outcome of this study aimed at benefiting clients.

The OT must ensure that the client's best interests are respected and never overridden by his or her personal interest in the research. The OT must also fully disclose any conflict of interest to both the participating client(s) and the REB.

Quality assurance and/or improvement studies are program evaluation activities, and performance reviews or testing used exclusively for assessment management or improvement purposes.

Quality assurance and/or improvement studies are unlike research studies which are meant to answer a research question and invite critical appraisal of that conclusion by peers. The data used in quality assurance and/or improvement studies is used to evaluate current performance and identify future performance improvements.

CONFLICT OF INTEREST

For example, suppose an OT on a hospital's occupational therapy team proposes to evaluate its efficiency of discharge rates for a particular treatment. The OT's father frequently uses this service, and the OT wants to improve the efficacy of his care. In this instance, the OT has a double interest in the study which may affect its conduct or influence its outcome. The OT is allowing her personal interests to interfere with her professional obligations in relation to the study.

Quality assurance and/or improvement studies are not subject to the rigour of REB approval. Nonetheless, OTs must be equally vigilant in protecting the clients' best interests. The data from these studies is typically made anonymous to ensure confidentiality.

Clients who actively participate in a quality improvement project must be fully informed about the project and provide written, informed consent before becoming involved. It is the OT's obligation to disclose any dual relationship he or she has; for example, as both a therapist and a study manager, as it affects the client. As well, the OT must clearly explain any financial support the OT is receiving for the study, and whether he or she is receiving benefits in addition to project funding, such as an incentive to recruit study participants.

When conducting research projects or quality assurance and/or improvements studies involving clients, the OT must never be placed in a situation that compromises professional obligations, and the project must be conducted in a manner that does not undermine the best interests of the participating clients. As well, in the course of conducting such studies, OTs must remember their actions are subject to the *Standards for Prevention and Management of Conflict of Interest* (COTO, 2012).

Scenario

Samir is a doctoral student. Part of his dissertation addresses the role of males in the occupational therapy profession. Samir's preliminary research focuses on what attracts men to the profession. Since Samir is also a teaching assistant in a master's occupational therapy program, he decides to survey the 13 male students in his 57-student class. His thesis adviser indicates that he needs a sampling of only 10 men.

By acting as both an educator and a researcher with the same group of students, Samir is in a dual relationship. By offering some of his male students the opportunity to participate in his research project, Samir may be creating a perceived conflict of interest with the non-participating students; they may feel the male students involved in the research are in a preferential situation. Samir's focus would be more properly directed at helping all of his students achieve their academic potential.

SECTION 7: CONFLICT OF INTEREST WITH ORGANIZATIONAL ACTIVITIES

In the course of professional practice, an OT may engage in organizational activities/governance activities such as serving on a committee, advisory group, board and/or task force. These activities hold the potential for conflicting interests between the OT's professional and organizational obligations.

Tensions, although sometimes obscure, can develop between the individual's obligations to the organization and his or her personal interests, resulting in a conflict of interest situation. These tensions

can arise from information obtained in the governance process that might benefit the OT's practice or a colleague's practice. Alternatively, information might be revealed about an individual with whom the OT has a professional association. In these situations, it is incumbent on the OT to preserve the confidentiality of the organizational information. Focusing on personal interests in governance activities is inappropriate. When the OT has a conflict of interest between his or her professional role and his or her organizational role, the OT must consider declaring the conflict and withdrawing from the discussion and decision-making.

When engaging in organizational activities, it is wise to obtain and become familiar with the organization's conflict of interest policy. Organizations commonly require individuals serving in the governing process to read, accept and sign a conflict of interest statement.

Scenario

Leah, an OT, has been in private practice for five years. Recently, she was elected to the board of the local hospital. At the board's first meeting, Leah discovers that the board is considering privatizing occupational therapy services in the hospital.

Leah definitely has an interest in the outcome of this issue, and therefore needs to declare her conflict of interest and offer to withdraw herself from the discussion when the topic is first raised. If Leah did not declare her conflict of interest, the board would question whether Leah's professional interests inappropriately influenced their decision-making.

SECTION 8: PRACTICE SCENARIOS AND QUESTIONS

The following scenarios offer an opportunity to apply the concepts in this module to circumstances that simulate clinical situations. They are not intended to test your knowledge; instead, the scenarios allow you to evaluate whether you understand the relevant principles.

As in resolving conflict of interest situations in occupational therapy practice, there may be more than one appropriate resolution or answer.

SCENARIO 1

Kathryn is the only OT working to provide rehabilitation services in the district hospital. She also works in private practice in a rural community in which she is the only OT. On occasion, Kathryn consults with a colleague who practises occupational therapy in the nearest community, which is 60 kilometres away. The colleague works in another district hospital, providing services to children.

One day, Kathryn is treating a man recovering from a broken hip who is about to be discharged. Kathryn advises him that follow up occupational therapy at home would be beneficial. The client asks Kathryn if she will continue his treatment privately.

He tells Kathryn that while in the hospital he had use of a walker and asks Kathryn to help him find the same make of walker to use at home. Kathryn agrees to take on the client's care and find the walker for him.

Question 1: What is the conflict of interest issue(s) in the scenario?

Question 2: How should Kathryn have dealt with this situation? Select the best answer.

- a) Kathryn should have asked the hospital to continue the client's care through its outpatient department.
- b) Since Kathryn is the only local OT and the client has mobility problems, Kathryn should have simply agreed to provide his care.
- c) Before accepting this client in her private practice, Kathryn should have explained to the client that she has a conflict of interest because she is the only OT in the area.
- d) Kathryn should have consulted with her supervisor in the hospital about what to do.

- e) She should have referred to another service, such as physiotherapy, nursing or homecare.
- f) Kathryn should have told the client that she cannot treat him privately.

Question 3: Would the issue of self-referral be different if Kathryn worked in an urban centre?

Question 4: What could Kathryn have done to anticipate and prevent this conflict of interest?

Answer true or false.

- a) Kathryn could have explored the availability of other OTs or health care professionals in her area or the possibility of other professionals travelling to the client's home.

True False

- b) Kathryn could have devised a strategy for handling this conflict of interest situation.

True False

- c) Kathryn could have advised her self-referred clients of the conflict of interest at the client's first appointment in her private practice.

True False

- d) Because there is nothing Kathryn could do about this situation, she should proceed and discuss any client concerns as they arise.

True False

SCENARIO 2

Aisha, an OT, works in a large city and, together with her partners, provides rehabilitation services for clients who have severe injuries. She is constantly working with suppliers of assistive devices to source products such as canes, walkers and wheelchairs. While she sources from a number of vendors, she prefers one particular supplier for its quality of service, products and timely response to her requests.

When a representative for this supplier is in the clinic demonstrating a new product, she tells Aisha that, given her expertise and familiarity with their products, the supplier would like her to make a

CONFLICT OF INTEREST

presentation at the upcoming annual conference of the suppliers' association, to which OTs are invited. She also tells Aisha that the supplier will pay the conference fees for Aisha and her colleagues. Aisha is flattered and accepts the invitation.

When Aisha arrives at the conference, she finds her name listed in the agenda. Her name is also on other materials being handed out to participants at the door. All of the materials have, as the sponsor of Aisha's presentation, the name and logo of the supplier.

After her presentation, the representative thanks Aisha and gives her a cheque in appreciation of her efforts. Aisha accepts the cheque with thanks.

Question 1: What is the conflict of interest issue(s) in the scenario?

Question 2: How should have Aisha responded to the supplier's proposal? Select the best answer.

- a) Aisha should have accepted the invitation to present at the conference on the condition that she could speak about other suppliers' products, too.
- b) She should have consulted with her partners immediately after the conference about her name appearing in conjunction with the supplier.
- c) Aisha should have accepted the supplier's offer for free conference admission for herself and her partners, but declined the invitation to speak.
- d) She should have declined the supplier's offers and discontinued using the supplier's products.
- e) Aisha should have considered the conflicts of interest in this situation and been prepared to be transparent about her involvement with the supplier.

Question 3: What are the differences between the actual, potential and perceived conflicts of interest in this scenario?

Question 4: Answer true or false.

- a) Aisha and her partners should establish a policy on how to manage vendor relations.

True False

- b) If Aisha's practice does not have a policy regarding vendor relations, Aisha cannot be held responsible for the consequences of the situation.

True False

- c) On hearing what the supplier was offering, Aisha should have considered the potential conflicts of interest before agreeing to present at the conference and accepting free admission.

True False

SCENARIO 3

Kim is an OT practising psychotherapy in an outpatient psychiatry clinic. She is also a member of a group that vehemently opposes abortion. In her free time, Kim provides lunch and hot beverages to the group members who demonstrate outside the office of a doctor who performs abortions. The local TV station always televises the demonstrations.

A client is referred to Kim for treatment following a suicide attempt. During the initial interview, the client discloses that she has had three abortions. She is despondent because now she desperately wants a baby but is unable to get pregnant.

Question 1: What is the conflict of interest issue(s) in the scenario?

Question 2: How should Kim respond to this situation? Select the best answer.

- a) Kim should tell the client she has a conflict of interest on a personal level and arrange to have her referred to another OT.
- b) She should proceed with the treatment because the client is unaware of her views.
- c) Kim should determine if she can be objective and transparent with the client prior to continuing with treatment.

CONFLICT OF INTEREST

- d) She should encourage the client to understand the inappropriateness of abortion.
- e) Kim should withdraw from being actively involved in the anti-abortion group to avoid a similar conflict in the future.

Question 3: Answer true or false.

- a) Kim is safe to conclude that since she does not discuss her personal beliefs with her clients, she need not take steps to manage the conflict of interest.

True False

- b) If Kim decides to have a discussion with her client about her conflict of interest, she does not need to document the event.

True False

- c) Kim is correct in concluding that her personal beliefs are her own and she is entitled to keep them to herself.

True False

- d) Even though Kim's participation at the demonstrations have never had any immediate repercussions, she should identify the potential conflict arising from her involvement and take steps to be more transparent in her practice.

True False

SCENARIO 4

You are the OT manager of a privately run rehabilitation practice. Along with one of your business partners, you also provide occupational therapy education to staff at the local hospital. Your partners have encouraged you to pursue a seat on the board of the Local Health Integration Network (LHIN), which holds meetings that are open to the public. You are elected to the board and attend the first few meetings, finding the experience invigorating. As you approach your fourth board meeting, you receive the meeting's advance package. On the agenda, you notice an item about a proposal to reduce the funding of occupational therapy education services in hospitals in the area, including the one in which you and your business partners provide educational services.

Question 1: What is the conflict of interest issue(s) in the scenario?

Question 2: What should you do in this situation? Select the best answer.

- a) Resign from the LHIN board.
- b) Wait until the meeting and decide whether you should be involved in the discussion and vote on this matter.
- c) Discuss with your business partners the need to object to a funding decrease to protect your business and other similar practices.
- d) Tell your business partners you will have to listen to the debate at the meeting before deciding on the matter.
- e) As soon as you identify the item on the agenda, consult with the chair of the board about your potential conflict of interest.

Question 3: Answer true or false.

- a) I would not consider participating in the LHIN decision as a conflict of interest as there are enough other board members to balance out my position.

True False

- b) I can contribute to the board meetings by pointing out the complexities of occupational therapy practice.

True False

- c) As a manager, I do not share the same level of responsibility with respect to conflict of interest as I would if I were in clinical practice.

True False

- d) If I consult with the board chair about this situation and am advised that I can participate in the discussion and vote on this matter, I am fulfilling my obligations with respect to conflict of interest.

True False

SCENARIO 5

Sangeeta, an OT, practises in a geriatric hospital for clients with dementia. She has been working at the facility for several years and has developed a relationship with several long-term residents, including an elderly woman who is in the process of settling her affairs. The woman tells Sangeeta she wants to sell a number of personal items. Among them is a large screen TV she has priced at \$200. Thinking she can improve the client's situation, Sangeeta offers to buy the TV for \$250, which she considers a reasonable price. The client enthusiastically agrees. Sangeeta goes to the home of the client's son where the TV is being kept to pay for it and pick it up.

CONFLICT OF INTEREST

Question 1: What is the conflict of interest issue(s) in the scenario?

Question 2: How should Sangeeta have dealt with this situation? Select the best answer.

- a) Sangeeta should not have bought the TV. Instead, she should have told the client she will post a notice in the hospital to advertise the items she wants to sell.
- b) She should have purchased the TV but arranged for a friend to meet the client's son to pay for and pick up the TV.
- c) To be fair to other clients, Sangeeta should have co-ordinated a bulletin board posting so they too could sell their goods to the hospital staff.
- d) Sangeeta should have advised the client that it would be wrong for her to buy the TV at anything other than its appropriate price.
- e) She should have refrained from involving herself in this issue.

Question 3 Answer true or false.

- a) This situation would not be of concern if the client was not considered vulnerable.

True False

- b) It is acceptable to enter into this arrangement because the client consented to it.

True False

- c) It would be more acceptable if Sangeeta did not give the client money for the TV, but instead offered to subsidize the cost of the services she provides her.

True False

- d) Sangeeta could avoid this situation by explaining to the client that she does not become personally involved with clients.

True False

- e) Sangeeta should discuss the client's offer with her colleagues or superior before making a decision.

True False

APPENDIX A: REFERENCES

Legislative references

Occupational Therapy Act, 1991, S.O. 1991, c. 33

Professional Misconduct Regulation, O. Reg. 95/07

Regulated Health Professions Act, 1991, S.O. 1991, c. 18

These documents are available at www.e-laws.gov.on.ca.

College references

Code of Ethics: Commitment to Good Practice (COTO, 2011)

Conscious Decision-Making in Occupational Therapy Practice (COTO, 2012)

The Guide to the Code of Ethics (COTO, 2012)

Standards for Prevention and Management of Conflict of Interest (COTO, 2012)

Standards for Professional Boundaries (COTO, 2009)

Standards for Record Keeping (COTO, 2008)

APPENDIX B: ANSWERS TO SECTION 8's PRACTICE SCENARIO QUESTIONS

The Prescribed Regulatory Education Program (PREP) is designed to help you stay up-to-date in your professional practice. The College developed this module to assist Registrants in understanding and complying with their professional obligations regarding conflict of interest.

PREP modules are self-directed learning tools for adult learners. Reading and reflecting on the answers and rationale reinforces learning and may help you identify further learning needs. Registrants confirm that most learning occurs from engaging in the process of completing a module. Reviewing the answers and rationale with other OTs can enhance your learning experience. It is a professional responsibility to take action if you identify a learning need. You are encouraged to incorporate your identified learning needs in your Professional Development Plan.

The practice scenarios are brief and provide only key information. You may make assumptions that are different from those of the College and therefore arrive at a different answer. What is important is that your understanding and rationale are sound. While not all choices are wrong, there is one or more best or most complete answers based on the information provided and the assumptions the College has made.

If you identify that your reasoning is not sound or that you do not fully understand the material, record the actions you need to take to address the learning need in your Professional Development Plan.

SCENARIO 1 - Kathryn

Question 1: What is the conflict of interest issue(s) in the scenario?

Kathryn has an actual conflict of interest by self-referring the client to her practice. While Kathryn may be correct in identifying the client's need for follow up care, a conflict arises because she is personally gaining, in the least financially, from the addition of this client to her private practice. An OT's primary obligation is to put the client's best interests above all else.

Performance Indicator 6 states the OT will "avoid self-referral or soliciting clients for their private business from clients they see in employment." In this scenario, Kathryn has not gone out of her way to solicit the client's business. However, she is in a position of self-referral by accepting him as a client.

If Kathryn is convinced that without her services the client would be left without assistance, she should consider Performance Indicator 6.1, which provides for instances when self-referral is unavoidable. It states that the OT will, "always disclose self-referral to his/her client and where applicable to the organization supporting or receiving the referral and other stakeholders."

Kathryn should have disclosed the nature of her self-referral to the client and the district hospital. She should also document the details of each of these disclosures, demonstrating her professional judgment and ensuring she can reasonably explain her decision.

Question 2: How should Kathryn have dealt with this situation? Select the best answer.

- a) Kathryn should have asked the hospital to continue the client's care through its outpatient department.
- b) Since Kathryn is the only local OT and the client has mobility problems, Kathryn should have simply agreed to provide his care.
- c) Before accepting this client in her private practice, Kathryn should have explained to the client that she has a conflict of interest because she is the only OT in the area.
- d) Kathryn should have consulted with her supervisor in the hospital about what to do.
- e) She should have referred to another service, such as physiotherapy, nursing or homecare.
- f) Kathryn should have told the client that she cannot treat him privately.

Answers (c) and (e) are the best answers. In (c), Kathryn recognized the conflict of interest at the outset. By disclosing the self-referral conflict to her client, Kathryn would have fulfilled her professional obligation to manage a conflict of interest in her practice. Kathryn should thoroughly document the disclosure and the client's response to it. Although Kathryn has taken steps to manage this situation, a conflict of interest still exists and there are ongoing risks to Kathryn in this situation. Kathryn needs to be vigilant in her transparency and to manage this conflict of interest situation on an ongoing basis.

Answer (e) would also be the best answer if there are other service providers in the area qualified to assess and prescribe mobility devices. However, this answer does not address the issue of transparency. Also, if the client has other occupational therapy goals, Kathryn may be the most appropriate professional to meet the client's needs. However, she is still required to disclose the conflict of interest and document it in the client chart.

Answer (a) is not the best answer. In this scenario it is unclear if the hospital can support Kathryn in providing outpatient services for the client (resource management issue). Nor is it clear if this service meets the client's needs in his home environment. If the hospital can accept the client as an outpatient, it might be a viable option. Since Kathryn is the only OT in the area, she likely treats the outpatient clients at the hospital. In any event, Kathryn should have anticipated the possibility of self-referral to her private practice and informed the district hospital of that possibility when she accepted work there.

Answer (b) is not the best answer. Although providing care may be the eventual resolution, Kathryn's response would be insufficient if she did not first explore and discuss other options with the client; for example, whether her colleague 60 kilometres away might be able to assist him, client preferences and resources, as well as other community services.

Answer (d) is not the best answer. Kathryn should have taken an anticipatory approach by discussing the potential of self-referral when she agreed to take the position at the hospital. In addition, she needs to be transparent with her employer regarding potentially or actually seeing clients privately. She might also consider consulting an experienced OT or the College for guidance.

CONFLICT OF INTEREST

Answer (f) is not the best answer. Kathryn would not be fulfilling her professional obligation to ensure the client's best interests if she simply told him she could not provide his private care. If other options are not available, Kathryn may be the only means by which the client can receive the continuing care he requires.

Question 3: Would the issue of self-referral be different if Kathryn worked in an urban centre?

Kathryn could face the same self-referral situation in a city. Although there would likely be other OTs or appropriate professionals available, issues such as client preference and needs, transportation, client-therapist rapport, client resources and convenience would still need to be explored. Kathryn would also need to be alert to the possibility of such requests and have a strategy in place to address the issue with clients, her colleagues and the hospital. In an urban setting, it would be appropriate for an OT to have a policy not to see clients privately from her in-patient caseload.

Question 4: What could Kathryn have done to anticipate and prevent this conflict of interest?

Answer true or false.

- a) Kathryn could have explored the availability of other OTs or health care professionals in her area or the possibility of other professionals travelling to the client's home.

True False

- b) Kathryn could have devised a strategy for handling this conflict of interest situation.

True False

- c) Kathryn could have advised her self-referred clients of the conflict of interest at the client's first appointment in her private practice.

True False

- d) Because there is nothing Kathryn could do about this situation, she should proceed and discuss any client concerns as they arise.

True False

Answer (a) is true. By assessing the availability of other OTs and health care professionals in the area and considering the client's preferences, Kathryn could have made the appropriate referral. It may have been preferable for Kathryn to refer the client to her colleague in the next town.

Answer (b) is true. By virtue of practising in a rural town with no other OT close by, Kathryn is facing an actual conflict of interest with respect to self-referral. By anticipating this conflict, reflecting on how to manage it and developing a strategy, she would be better able to manage referral requests.

Answer (c) is false. To address the problem after she has accepted a self-referral would be acting after the conflict of interest had presented itself.

Answer (d) is false. There is a lot Kathryn could do in advance of this situation arising. She could have reflected on the situation and created a self-referral policy, explored hospital policies and discussed the matter with her manager.

SCENARIO 2 - Aisha

Question 1: What is the conflict of interest issue(s) in the scenario?

There are a number of issues, each involving stakeholder relations. The main problem is Aisha's involvement with the conference and the degree to which she found herself associated with the vendor and its products in front of other OTs and vendors.

There is also a potential conflict of interest for Aisha who could be seen as favouring this vendor, therefore limiting her clients' options to a vendor. Aisha must realize that she could be neglecting her professional obligation to her clients if her association with this vendor results in decreasing important options for her clients. By accepting the supplier's cheque, Aisha has potentially created further expectations of her in the eyes of the supplier. There is also a potential conflict apparent with Aisha and her practice partners accepting the vendor's offer to pay their conference fees.

Standard Statement 7 states the OT will "reflect upon personal, financial and business relationships with stakeholders, and will avoid those that would constitute or be perceived to constitute a conflict of interest." It is evident that Aisha did not reflect on the ramifications of the supplier's offers. As a result, Aisha has placed herself in a position of personal gain that could compromise her objective and professional interactions in a way that may not protect the best interests of her clients⁴ or ensure that her primary obligation is her clients.⁵ Aisha created a potential, if not actual, conflict of interest in relation to the obligations she owes her clients and the relationship she has created with the supplier. As well, Aisha has created a perceived conflict of interest among the OTs and suppliers attending the conference.

Question 2: How should have Aisha responded to the supplier's proposal? Select the best answer.

- a) Aisha should have accepted the invitation to present at the conference on the condition that she could speak about other suppliers' products, too.
- b) She should have consulted with her partners immediately after the conference about her name appearing in conjunction with the supplier.
- c) Aisha should have accepted the supplier's offer for free conference admission for herself and her partners, but declined the invitation to speak.
- d) She should have declined the supplier's offers and discontinued using the supplier's products.

⁴ Performance Indicator 7.1

⁵ Performance Indicator 7.2

CONFLICT OF INTEREST

- e) Aisha should have considered the conflicts of interest in this situation and been prepared to be transparent about her involvement with the supplier.

The best answer is (e). By reflecting on the situation ahead of time, Aisha would be able to identify the perceived and actual conflicts of interest. So as not to misrepresent her opinions, Aisha could disclose the conflict of interest during the presentation. To help her identify the pitfalls in the situation, she could have reviewed the *Standards for Prevention and Management of Conflict of Interest* (COTO, 2012).

Answer (a) is not the best answer. Although it might partially moderate the situation if Aisha referred to other suppliers' products in her presentation, it may not have provided the necessary transparency in associating with one particular vendor.

Answer (b) is not the best answer. It exemplifies a reactive instead of proactive approach. After the conference, the damage would have already been done with respect to Aisha's involvement in the conference and the potential impact on Aisha's reputation. The only advantage of this approach is that conducting a review of the situation could prevent similar conflict of interest situations in the future.

Answer (c) is not the best answer. Aisha should consider the obligations that may be created to the vendor by accepting this benefit.

Answer (d) is not the best answer. Aisha needs to consider that if she discontinues using the supplier's services, it could be detrimental to the best interests of her clients. This over reactive response could also have a negative impact on the overall nature of the relationship with the supplier.

Question 3: What are the differences between the actual, potential and perceived conflicts of interest in this scenario?

An actual conflict of interest refers to an action that has resulted in a conflict of interest. In this scenario, an actual conflict of interest occurred when Aisha personally gained by accepting the supplier's cheque for her presentation. This may cause Aisha to promote the supplier's products preferentially. There is also a lack of transparency about this payment.

A potential conflict of interest occurs when a neutral, informed person would reasonably conclude that the OT may fail to fulfil his or her professional obligation to act in the client's best interests. In this instance, a potential conflict of interest arose in Aisha's apparent endorsement of the supplier's products which might not always be in her clients' best interests.

A perceived conflict of interest occurs when a neutral, informed person would reasonably conclude that the OT has been improperly influenced, even if that is not the case. If Aisha is not transparent about the sponsorship, a perceived conflict of interest may result. Those attending the conference may believe that to receive benefits from the vendor, Aisha uses the vendor's products preferentially to the detriment of her clients.

Question 4: Answer true or false.

- a) Aisha and her partners should establish a policy on how to manage vendor relations.

True False

- b) If Aisha's practice does not have a policy regarding vendor relations, Aisha cannot be held responsible for the consequences of the situation.

True False

- c) On hearing what the supplier was offering, Aisha should have considered the potential conflicts of interest before agreeing to present at the conference and accepting free admission.

True False

Answer (a) is true. If the practice does not already have a policy on managing vendor relations, Aisha and her partners should establish one to apply in future vendor interactions. The policy should consider personal, financial and business associations with vendors and include guidelines regarding disclosure and documentation. Following the policy will enhance the practice's transparency.

Answer (b) is false. As an OT, Aisha is obligated to identify and manage conflict of interest situations, even in the absence of a practice policy.

Answer (c) is true. Reflecting on the situation prior to engaging in it could have helped Aisha avoid the problems she encountered. She should have questioned the supplier's promotional plans for the conference and stated at the outset that she would not accept any form of gratuity for presenting as she would be seen to exclusively promote the supplier's products. She also should have transparently addressed the perceived conflict of interest that she is endorsing the supplier's products to the exclusion of others.

SCENARIO 3 - Kim

Question 1: What is the conflict of interest issue(s) in the scenario?

Kim is faced with an actual conflict of interest between her strongly held personal beliefs and those of this and other potential clients. Kim should be aware that her commitment to her personal beliefs can interfere with providing care that is in the best interests of her clients.

She has a perceived conflict of interest by assisting her friends at public, televised demonstrations against abortion. Individuals who observe Kim in this situation might assume her practice is influenced by her personal interests, rather than being client-centred. This perceived conflict could affect her professional integrity.

CONFLICT OF INTEREST

Performance Indicator 1.2.3 states that the OT will, “reflect upon and recognize strongly held opinions, biases or beliefs pertaining to race, gender, religion, age, sexual orientation, disability, nationality or other grounds protected by human rights which affect their ability to meet client’s needs.” In this instance, Kim’s personal beliefs conflict with her client’s beliefs. Kim must consider disclosing her conflict to the client⁶ and provide the client with the opportunity to decline her service.⁷

While no one would question that Kim does have the right to publicly express her beliefs, by associating with the public demonstration, Kim needs to consider how her actions will potentially be perceived and affect her credibility and the quality of her client care.⁸ It does not appear that Kim has reflected on or recognized how her personal activities might influence her need to be impartial and neutral with her clients.⁹

Question 2: How should Kim respond to this situation? Select the best answer.

- a) Kim should tell the client she has a conflict of interest on a personal level and arrange to have her referred to another OT.
- b) She should proceed with the treatment because the client is unaware of her views.
- c) Kim should determine if she can be objective and transparent with the client prior to continuing with treatment.
- d) She should encourage the client to understand the inappropriateness of abortion.
- e) Kim should withdraw from being actively involved in the anti-abortion group to avoid a similar conflict in the future.

Answer (c) is the best answer. While the response is reactive instead of proactive, determining if she can be objective in this situation may help her manage similar situations in the future. Kim should review the *Standards for Prevention and Management of Conflict of Interest (COTO, 2012)* to understand what is expected of her. She could also consult with colleagues, mentors, the College and/or her supervisor for assistance with her decision.

Answer (a) is not the best answer. Kim should disclose her conflict to her client, but automatically referring the client to someone else may be unnecessary if the client wishes to continue and Kim is able to provide professional, client-centred treatment.

Answer (b) is not the best answer. Even if the client remained unaware of Kim’s strongly held personal beliefs, the conflict of interest must be addressed through disclosure. If the client later learns of Kim’s beliefs, she may lose trust in Kim’s interventions.

Answer (d) is not the best answer. By capitalizing on the client’s vulnerability, Kim is not meeting her

⁶ Performance Indicator 3.2.1

⁷ Performance Indicator 3.2.2

⁸ Performance Indicator 1.3

⁹ Performance Indicator 1.2.1

professional obligation to put the client's best interests ahead of her own. It would be contrary to her professional ethics to attempt to sway her client's beliefs, particularly if they oppose hers. Kim's role is to assist the client in dealing with her circumstances and health.

Answer (e) is not the best answer. Kim should strongly consider the impact her public activities might have on maintaining her neutrality in the client-therapist relationship. However, withdrawing from the public activities does not address the impact of her past activities on her future professional role nor does it address the impact of her strongly held private beliefs on her care of some clients.

Question 3: Answer true or false.

- a) Kim is safe to conclude that since she does not discuss her personal beliefs with her clients, she need not take steps to manage the conflict of interest.

True False

- b) If Kim decides to have a discussion with her client about her conflict of interest, she does not need to document the event.

True False

- c) Kim is correct in concluding that her personal beliefs are her own and she is entitled to keep them to herself.

True False

- d) Even though Kim's participation at the demonstrations have never had any immediate repercussions, she should identify the potential conflict arising from her involvement and take steps to be more transparent in her practice.

True False

Answer (a) is false. Kim has a conflict of interest in this situation. She should have anticipated the extent to which her beliefs could create a conflict of interest in relation to her professional obligation to put her clients' best interests first. Whether it is apparent or not to the client, Kim has a conflict of interest that could do harm to this client.

Answer (b) is false. Kim must document every conflict of interest occurrence. In doing so, Kim can demonstrate that she reasonably managed the conflict.

Answer (c) is false. Kim clearly has a strong commitment to her personal beliefs; however, she must be able to separate her personal beliefs from her practice. Good professional practice respects the dignity and worth of the client. Kim must proactively recognize those beliefs that have the potential to influence the values of client-centred practice, accountability, respect for autonomy and transparency. To manage this dilemma, Kim could have sought the advice of other experienced OTs or the College. Kim would benefit from an objective opinion as to whether she can serve the best interests of her client(s) in light of her personal beliefs.

CONFLICT OF INTEREST

Answer (d) is true. Once Kim realizes the potential of this situation, including how she might be perceived to be in conflict by those who observe her at a demonstration, she should consider documenting (for example, in the client chart, a personal log or employment record) her response to the potential conflict of interest and be prepared to explain what steps she took to manage it should questions arise later.

SCENARIO 4 – You as an OT manager

Question 1: What is the conflict of interest issue(s) in the scenario?

You have encountered an actual conflict of interest between the direction the LHIN is considering taking on this issue and the effect it could have on your business interests. You are also presented with a conflict regarding whose interest you should uphold. While you have an obligation to your practice, you are also obligated to uphold the LHIN's integrity.

Standard 9 requires that the OT will, “protect the integrity of any committee, board, council or other similar bodies where they are members. The occupational therapist will avoid and/or address (e.g. by full disclosure) any circumstance that may lead to an actual, potential or perceived conflict of interest.” In this scenario, consideration should be given to the extent of your participation in this issue¹⁰; whether you should participate in the discussion or vote on this issue¹¹, and when and to whom you should disclose your conflicts of interest.¹² You should also refer to the LHIN's conflict of interest policy.¹³

Question 2: What should you do in this situation? Select the best answer.

- a) Resign from the LHIN board.
- b) Wait until the meeting and decide whether you should be involved in the discussion and vote on this matter.
- c) Discuss with your business partners the need to object to a funding decrease to protect your business and other similar practices.
- d) Tell your business partners you will have to listen to the debate at the meeting before deciding on the matter.
- e) As soon as you identify the item on the agenda, consult with the chair of the board about your potential conflict of interest.

The best answer is (e). By speaking to the chair of the LHIN board prior to the meeting, you are declaring your conflict of interest at the outset and resolving the problem before the meeting. At the meeting, you would likely need to leave the room when this item is discussed and refrain from any decision-making on the matter.

Answer (a) is not the best answer. Conflicts of interest are common and should be dealt with as they arise. To decide to resign on one issue, when in many other instances there would be no conflict, is unnecessary and not in the best interests of the board.

¹⁰ Performance Indicator 9.1

¹¹ Performance Indicator 9.2

¹² Performance Indicator 9.3

¹³ Performance Indicator 9.4

Answer (b) is not the best answer. If you wait until the meeting to decide how to deal with your conflict of interest, others may point it out before you can state your position. This situation would diminish your credibility.

Answer (c) is not the best answer. As a board member, you must keep confidential any issues raised; therefore, you cannot discuss this issue with your business partners or others. You do not hold a seat on the board to represent a specific constituency. As a board member, you are obligated to set aside your personal interests and assume the role of an impartial board member whose primary obligation is to represent the best interests of the LHIN.

Answer (d) is not the best answer. Discussing the matters brought to the board is a breach in confidentiality. If your business partners inquire into the issues to be raised at the board meeting, you need to explain that you are unable to discuss the issues discussed at the meetings and you must maintain the confidentiality of the information. You may inform your partners that the meetings are open to the public and that they may attend.

Question 3: Answer true or false.

- a) I would not consider participating in the LHIN decision as a conflict of interest as there are enough other board members to balance out my position.

True False

- b) I can contribute to the board meetings by pointing out the complexities of occupational therapy practice.

True False

- c) As a manager, I do not share the same level of responsibility with respect to conflict of interest as I would if I were in clinical practice.

True False

- d) If I consult with the board chair about this situation and am advised that I can participate in the discussion and vote on this matter, I am fulfilling my obligations with respect to conflict of interest.

True False

Answer (a) is false. Regardless of whether other board members agree with you, participating in the decision would be a conflict of interest.

Answer (b) is true. Boards look for members who bring experience to their deliberation. Speaking about occupational therapy experience is acceptable as long as it is not driven by personal gain or interest and is not part of an agenda item in which there is a conflict of interest.

CONFLICT OF INTEREST

Answer (c) is false. All OTs, regardless of the work they perform or the role they fulfil, have an obligation to prevent or manage conflict of interest situations. While you may not be providing services directly to clients, your actions reflect the integrity of your professional judgments and the integrity of the profession. By virtue of being an OT, you are responsible for applying the conflict of interest standards in the same manner as any Registrant.

Answer (d) is false. The obligation to ensure that your conflict of interest is properly managed is solely your own, even if the chair dismisses the conflict. You need to fully consider your responsibility in each situation as well as any advice you might receive. In this case, you should not participate in the discussion or vote on the matter.

SCENARIO 5 - Sangeeta

Question 1: What is the conflict of interest issue(s) in the scenario?

Sangeeta encouraged a personal gain from a vulnerable client and put her personal interests ahead of the client's. While Sangeeta might believe she is helping the client by offering more than her asking price, she is still taking personal advantage of the situation by purchasing the TV at less than market value. In addition, she acted unprofessionally by going to the son's residence for a personal purpose.

Standard Statement 4 requires that OTs not exploit the therapeutic relationship for personal benefit. Performance Indicator 4.1 states that the OT will, "refrain from exchanging gifts, hospitality or other benefits to avoid creating expectation for the type of care the client will receive, and prevent the perception that the occupational therapist's integrity will be compromised." In this scenario, Sangeeta has a conflict of interest by personally gaining by purchasing a TV at a below market price. As well, she could be perceived as compromising her professional integrity by pursuing a personal gain, particularly as the situation involves a vulnerable client.

Question 2: How should Sangeeta have dealt with this situation? Select the best answer.

- a) Sangeeta should not have bought the TV. Instead, she should have told the client she will post a notice in the hospital to advertise the items she wants to sell.
- b) She should have purchased the TV but arranged for a friend to meet the client's son to pay for and pick up the TV.
- c) To be fair to other clients, Sangeeta should have co-ordinated a bulletin board posting so they too could sell their goods to the hospital staff.
- d) Sangeeta should have advised the client that it would be wrong for her to buy the TV at anything other than its appropriate price.
- e) She should have refrained from involving herself in this issue.

Answer (e) is the best answer. Sangeeta should not have become personally involved with her client by purchasing the TV. If she did, she would be gaining financially from the client, and her personal gain would be at the expense of her client's vulnerability.

Answer (a) is not the best answer. Sangeeta could likely only commit to posting a notice if it was within the facility's approved policy. By offering to post a notice for this client, it may be unfair to other clients and may go beyond the therapeutic relationship and may lead to inappropriate requests. In addition, this may open others to potential conflict of interest if other staff consider purchasing items.

Answer (b) is not the best answer. Having a friend pick up the TV eliminates the boundary crossing and further non-therapeutic involvement, but it does not resolve the inappropriateness of Sangeeta's initial agreement to purchase the TV.

Answer (c) is not the best answer. While Sangeeta is treating clients equally by co-ordinating a sale for all of them, by posting sale notices she is opening others to potential conflicts of interest and/or boundary crossing.

Answer (d) is not the best answer. While paying an appropriate price resolves the issue of exploiting the client's vulnerability, it still leaves Sangeeta in the position of engaging inappropriately with the client by purchasing her TV and potentially creating non-therapeutic expectations for the client.

Question 3: Answer true or false.

a) This situation would not be of concern if the client was not considered vulnerable.

True False

b) It is acceptable to enter into this arrangement because the client consented to it.

True False

c) It would be more acceptable if Sangeeta did not give the client money for the TV, but instead offered to subsidize the cost of the services she provides her.

True False

d) Sangeeta could avoid this situation by explaining to the client that she does not become personally involved with clients.

True False

e) Sangeeta should discuss the client's offer with her colleagues or superior before making a decision.

True False

CONFLICT OF INTEREST

Answer (a) is false. Regardless of the level of vulnerability of the client, purchasing an item from a client represents a personal gain. It could interfere with the OT's professional judgment and the client's trust in and respect for the OT as a professional.

Answer (b) is false. Any interactions with a client that create a conflict of interest cannot be defended on the basis of client consent.

Answer (c) is false. A conflict of interest arises when an OT accepts a personal gain at the expense of client care. The offer to provide subsidized services to this client is no less an error than paying the client directly. The client may feel entitled to ongoing preferential treatment, and the situation may cause the client to be concerned about the OT's integrity. In addition, offering subsidized services may constitute professional misconduct.

Answer (d) is true. Sangeeta should explain her professional obligations regarding boundaries with this client and the impact of such an exchange on the client-therapist relationship. If the client has difficulty in understanding Sangeeta's response, she might explain the circumstances to the client's son and/or substitute decision-maker.

Answer (e) is true. By discussing the situation with her colleagues or supervisor, various resolutions could be considered. For example, the client's son could be engaged in a discussion of how the client's affairs could be managed without the involvement of her caregivers.

APPENDIX C: REFLECTIVE PRACTICE EXERCISE 2

Conflict of interest

This reflection exercise must be completed online in the Portal by the deadline date. It will be required at Competency Review and Evaluation.

Instructions

1. Read Sections 1 through 7.
2. Review the practice scenarios in Section 8.
3. Answer and record your answers to each question. This year you are only required to submit the Reflective Practice Exercise 2. (An answer sheet is not needed). **You are required to complete Reflective Practice Exercise 2 in the Portal.** Complete it either online through the e-learning module or by recording your responses directly on the *Reflection Page* located under the *PREP Module* tab in the Portal.
4. Review the best answers and rationale provided by the College in Appendix B.
5. Compare your answers with the best answers, noting any discrepancies. Comment, if necessary, on your assumptions and rationale as compared to those of the College. If you recorded your rationale in the margins of the module, it is not necessary to duplicate or re-copy it. Instead, refer to your previous work using the space provided.
6. Identify any learning needs based on gaps in your understanding of the material and complete the *Learning Needs* column.
7. Consider these learning needs as you create your Professional Development Plan. Where you have identified a need, make sure to record it in your plan so you can address it this year or track it for the future. You can automatically add the scenario to your Plan from the *Reflection Page* by clicking on *Add to learning plan*.

