

Private Practice

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Introduction

Determining whether to open a private practice is a complex decision. Prior to entering private practice, occupational therapists must reflect on the following: their level of experience and competence in their area of practice, their knowledge of business practices, and their ability to manage their day-to-day practice while ensuring that they are maintaining professional standards and meeting legislative requirements. Occupational therapists are responsible for identifying, researching, and determining whether additional legislation is applicable to their private practice and how to comply with that legislation.

This document reviews recommended practices and provides information for occupational therapists wishing to establish a private practice. The document pertains to occupational therapists who are self-employed, own and operate their own occupational therapy business, or are acting as independent contractors or subcontractors.

For the purposes of this document, a “client” is defined as:

- The person being assessed (whether in person or otherwise) and/or treated
- The person for whom the occupational therapy services, recommendations, or professional opinions apply

The College acknowledges that occupational therapists may be privately involved in a non-clinical consultative capacity where they are providing recommendations for organizations to implement. In such situations, the organization to whom the occupational therapist is providing consultation is referred to as the client.

This document is intended to be used along with applicable legislation and College standards to enable occupational therapists to provide safe, competent, and ethical care. For further resources, see the Appendix at the end of this document.

Overview

1. Providing Ethical and Competent Care
2. Record Keeping and Privacy
3. Fees and Billing
4. Advertising and Use of Title
5. Selling or Recommending Products
6. Business Practices
7. Risk Management
8. Closing or Leaving a Private Practice
9. Summary
10. Appendix: Checklist for Starting a Private Practice
11. References

Providing Ethical and Competent Care

Private Practice

The College's Code of Ethics serves as a foundation for occupational therapy practice. When working in private practice, as with any practice setting, occupational therapists must be guided by the core values of Respect and Trust and the principles of practice that follow: Client-Centred Practice, Respect for Autonomy, Collaboration and Communication, Honesty, Fairness, Accountability, Transparency, Professional Boundaries, and Conflict of Interest.

The *Competencies for Occupational Therapists in Canada* (2021) describes the skills, knowledge, and judgement occupational therapists should demonstrate in clinical and non-clinical practice. When working in private practice, occupational therapists must ensure that they are competent and follow a systematic approach to service delivery in keeping with the profession's standards.

Occupational therapists are also responsible for ensuring that they are competent practitioners who are working within their professional scope of practice as defined in the *Occupational Therapy Act, 1991*:

The practice of occupational therapy is the assessment of function and adaptive behaviour and the treatment and prevention of disorders which affect function or adaptive behaviour to develop, maintain, rehabilitate or augment function or adaptive behaviour in the areas of self-care, productivity and leisure (section 3).

Because occupational therapists working in private practice may be conducting their business in relative isolation, they should take extra care to remain abreast of evidence-informed practice and engage in ongoing mentorship in their practice area. They can align themselves with or establish professional practice networks with other occupational therapists in similar private practice areas. Occupational therapists may also wish to contact professional associations to access or align themselves with peer networks.

Record Keeping and Privacy

***Personal Health Information Protection Act, 2004* and Health Information Custodians and Agents**

When occupational therapists are working privately, either in their own practice or by contracting their services, they are accountable for documenting and maintaining their own health records. Occupational therapists should follow the expectations outlined in the Standard for Record Keeping, including taking steps to determine whether they are the health information custodian (HIC) or the agent of the HIC. The *Personal Health Information Protection Act, 2004* (PHIPA) specifies who can and who cannot assume the role of HIC. An occupational therapist in private practice could be an HIC; however, if the occupational therapist is subcontracting their services through another agency, they may be acting as an agent of the HIC. Occupational therapists who are HICs should establish privacy policies that are consistent with relevant privacy legislation, such as PHIPA. Occupational therapists are also responsible for determining which privacy legislation applies to their private practice and following what is outlined in the applicable legislation. For additional information, refer to Privacy Legislation and Occupational Therapy Practice.

Retention of Health Records

Occupational therapists in private practice must determine whether they are acting as the HIC or the agent, which determines responsibility for record retention. The Standard for Record Keeping outlines the expectations for retention of health records. Occupational therapists retaining health records privately, such as in their home, clinic, or office, should also take reasonable measures to ensure the safety and security of those records as outlined in the Standard for Record Keeping and PHIPA or other relevant privacy legislation.

Succession Planning for Health Records

Occupational therapists in private practice should seek legal advice to establish an estate plan to ensure that health records are securely maintained and retained in case of an unforeseen event, such as the occupational therapist's death. This is referred to as succession planning (Information and Privacy Commissioner of Ontario, 2019).

Record Keeping for Non-Clinical Consultations

Occupational therapists who are providing non-clinical consultations need to determine how relevant information pertaining to the consultation should be documented and maintained. This documentation may include maintaining records consisting of the date the consultation was provided, the name of the client to whom it was provided, and the recommendations that were provided.

Fees and Billing

Fees

The College is not involved in establishing fee guidelines for occupational therapy services. Occupational therapists can perform an environmental scan to determine appropriate fees to be charged in their area of practice. Occupational therapists are advised to consult with associations such as the Ontario Society of Occupational Therapists (OSOT) and the Canadian Association of Occupational Therapists (CAOT) to assist them in establishing fees for their private practice. Looking at fee guidelines established by regulatory organizations for specific practice areas may also be prudent. For example, the Financial Services Commission of Ontario has established the Professional Service Fee Guidelines for individuals providing services that are funded by auto insurance.

When establishing fees for private practice, occupational therapists must ensure that the fees are fair, equitable, and transparently communicated upfront to clients as outlined in *Ontario Regulation 95/07: Professional Misconduct* (1991).

Financial Records

Occupational therapists are expected to maintain financial records for services provided to clients as outlined in the Standard for Record Keeping. Any waived or differential fees should be noted. The financial record is part of the client record and therefore subject to the same retention time period.

Invoices provided to clients should contain the provider's name, title, and billing address; the client's name; the date the products/services were provided; the fee for the products/services; the date and method of payment received; and any balance owing. If the service was provided by an occupational therapy assistant, their name and title should be transparently displayed on the invoice. In cases where the client is submitting the invoice to an insurer, the occupational therapist may also need to include their College registration number.

Occupational therapists providing consultative services to organizations need to establish transparent billing practices.

Charging HST

The decision as to whether occupational therapy service components are HST taxable or not lies within the Canada Revenue Agency's jurisdiction. Occupational therapists are responsible for researching this matter and fully complying with all requirements of the Canada Revenue Agency, recognizing that changes to the rules can occur. Occupational therapists are encouraged to seek the services of an accountant or tax lawyer to ensure that they are meeting their professional obligations. Additional information related to HST-taxable and HST-exempt services may be found on the Canada Revenue Agency website and the professional association websites (OSOT and CAOT).

Advertising and Use of Title

Advertising

Advertising in healthcare is different from advertising in a business context. Occupational therapists are encouraged to review *Ontario Regulation 226/96: General – Part V, Advertising* (1991). This regulation was developed to ensure that advertising approaches adopted by regulated health professionals are honest, truthful, transparent, and professional. While marketing and advertising are important components of promoting a private practice, occupational therapists are held in a position of esteem and trust by the public. Furthermore, clients seeking healthcare services, such as occupational therapy, can be vulnerable. Therefore, direct pressure sales or solicitation are prohibited, as noted in *Ontario Regulation 226/96*, section 22 (1): "A member shall not contact or communicate with, or permit any person to contact or communicate with, an individual in an attempt to solicit business." The direct pressure sales or solicitation restriction does not apply to third party referral sources, who are not directly receiving the healthcare, such as institutions, insurance companies, and lawyers.

Private Practice

As noted in the regulation (section 21), information in advertisements must:

- Be accurate, factual, and professional
- Be verifiable by the occupational therapist
- Not be misleading by either omitting relevant information or including non-relevant information
- Not contain any “testimonial, comparative or superlative statements,” and
- Not reference a “specific brand of drug, device, or equipment”

Providing the public with accurate, factual, objective, and verifiable information to make an informed choice is in the public’s best interest. The regulation also applies to occupational therapists advertising their services using social media.

Use of Title

Occupational therapists should review the Standard for Use of Title to determine how to denote their name, designation, and area of practice on their email signature, business cards, and promotional materials.

Selling or Recommending Products

Occupational therapists commonly recommend equipment or other products for client use. Many occupational therapists may also have products available for clients to purchase. When selling or recommending products, occupational therapists are accountable for ensuring that they are knowledgeable about product safety and use with a particular client population. Occupational therapists should give information about the products, including the cost, and provide alternative options to clients if they wish to purchase the products from other vendors. Occupational therapists should transparently and clearly communicate their recommendations regarding products to the client. Additionally, when a fee is charged for a product, occupational therapists should maintain financial records as outlined in the Standard for Record Keeping.

Occupational therapists must be aware that selling or recommending products can result in a conflict of interest if the occupational therapist stands to benefit. Occupational therapists should review the Standard for the Prevention and Management of Conflicts of Interest.

Business Practices

Development of Policies

Private Practice

Policy development supports the proactive, transparent, and standardized management of processes and situations that may arise in private practice. For occupational therapists working for an employer, these policies are established by the employer and communicated to the occupational therapists. In private practice, occupational therapists must develop and communicate their policies to all relevant parties. Occupational therapists are encouraged to have their policies reviewed by other relevant professionals as appropriate.

Development of Forms and Templates

Occupational therapists working in private practice may find that the development of forms and templates promotes efficiency and structure and supports professional practices such as record keeping and obtaining informed consent. The College does not provide legal advice and thus cannot sanction or approve occupational therapists' forms or templates. Occupational therapists may need to seek advice from other relevant professionals and have their forms and templates reviewed.

Consulting With Other Professionals

As noted in the sections above, occupational therapists should consult with various other professionals when setting up a private practice, including lawyers, accountants, insurance brokers, policy analysts, and financial advisers. Additionally, consulting with mentors or business owners who have already established similar occupational therapy practices may be prudent. Finally, associations such as OSOT or the CAOT may be able to provide additional information or mentorship to occupational therapists wishing to establish a private practice.

Setting up a Corporation

Regulated health professionals are permitted to incorporate their business for the purpose of practising a health profession provided they obtain a Certificate of Authorization from the College. Occupational therapists wishing to incorporate their business can review the Application for a Certificate of Authorization for Health Profession Corporations Guide on the College website for more information.

Risk Management

Professional Liability Insurance

All occupational therapists, regardless of area of practice or practice status, must have professional liability insurance that meets College requirements. For details about the requirements, please refer to the College Bylaws (Part 19). The College does not endorse any one insurance provider. Each occupational therapist must determine which insurance provider and policy best meets their needs. If professional liability insurance coverage changes (including the insurer name, start date, expiry date, or certificate/policy number), the occupational therapist must update their College profile online within 30 days of the change occurring.

Private Practice

Occupational therapists entering private practice need to consider how to protect themselves professionally. This may include purchasing additional liability insurance to augment the required insurance. When determining whether to purchase additional insurance, occupational therapists need to consider their area of practice, the risk associated with the services being provided, and possible consultation with legal counsel or another expert about appropriate insurance coverage.

Conflict of Interest

Occupational therapists are advised to proactively determine existing or anticipated conflict of interest situations when establishing a private practice. Being proactive will enable occupational therapists to develop policies to either prevent or manage conflict of interest situations in accordance with the Standard for the Prevention and Management of Conflicts of Interest and applicable legislation.

Maintaining Boundaries

When occupational therapists are working privately in settings such as their own homes or clinics, professional boundaries must be maintained with clients and other interested parties as outlined in the Standard for Professional Boundaries and the Prevention of Sexual Abuse. Maintaining boundaries includes outlining policies to clients and interested parties regarding business practices such as hours of work and the use of electronic communication. Occupational therapists should consider the use of a separate business telephone number and email address to maintain confidentiality of client information and professional boundaries.

Infection Prevention and Control Practices

Occupational therapists working in private practice should establish policies related to best practices in infection prevention and control as outlined in the Standard for Infection Prevention and Control, including policies regarding cleaning and disinfecting supplies and equipment used in the practice.

Closing or Leaving a Private Practice

Continuation of Services for Existing Clients

Occupational therapists must ensure that a plan is in place for clients who need ongoing occupational therapy services. This plan includes having a transparent conversation with current clients to discuss the status of their goals and provide options for follow-up, such as referrals to other occupational therapy providers. The discussions and follow-up plan should be documented in the client record. Additionally, occupational therapists may need to contact referral sources to inform them that the

Private Practice

occupational therapist is closing or leaving a practice. Occupational therapists can review the College's Discontinuing Services for more information.

Fees and Billing

Prior to closing or leaving a practice, occupational therapists should ensure that no financial records are outstanding.

Record Keeping and Privacy

The College expects that all health records are up to date prior to an occupational therapist's closing or leaving a practice. If the occupational therapist is the HIC, they should ensure that records are retained securely for the specified period as outlined in the Standard for Record Keeping. If the occupational therapist is not the HIC, they must ensure that records are retained by the organization to whom they are contracting their services. Occupational therapists should follow the Privacy Commissioner's guidelines for notifying clients about access to their records.

If privacy legislation other than PHIPA is applicable to an occupational therapist's practice, the occupational therapist must know and understand retention requirements pertinent to the relevant legislation.

Summary

Occupational therapists working in private practice are accountable for ensuring that they are competent practitioners who use sound business practices. Occupational therapists must balance occupational therapy service delivery, client expectations, and fiscal responsibility when engaging in private practice. While the autonomy and flexibility of private practice can contribute to work satisfaction, the onus is on occupational therapists to define practices and set policies, as well as to manage the isolation that may be inherent in a private practice setting. Occupational therapists who are contemplating establishing a private practice must consider all relevant factors.

Appendix: Checklist for Starting a Private Practice

Occupational therapists should consider the following information when setting up their practice. Aspects of the business plan may need to be reviewed by accounting and legal professionals. Once input has been obtained, policies and procedures can be developed for the practice.

Checklist

☑ **Values to reflect:** What principles must the occupational therapy services reflect?

Resources: [Code of Ethics](#), [Competencies for Occupational Therapists in Canada \(2021\)](#)

☑ **Business structure:** Have tax or business lawyers or accountants been consulted? Do they recommend setting up a professional corporation? Is additional insurance needed based on risk?

Resource: [Professional Corporations](#)

☑ **Advertising legislation:** Has advertising legislation been reviewed to ensure that marketing approaches and social media platforms and websites are honest, truthful, transparent, and professional?

Resources: [Occupational Therapy Act, 1991: General](#), [Use of Social Media](#)

☑ **Consent:** What must be included during the consent discussion? Who can give consent?

Resources: [Standard for Consent](#), [Consent Checklist](#), [Determining Capacity Decision Tree](#)

☑ **Assessment:** How are clients going to be assessed? What about virtual services?

Resources: [Standard for Assessment and Intervention](#), [Remote \(Virtual\) Services](#)

☑ **Documentation:** What must be documented? How will personal health information be kept secure? What are an HIC's obligations?

Resources: [Standard for Record Keeping](#), [Record Keeping Review Tool](#), [Personal Health Information Protection Act, 2004: A Guide for Regulated Health Professionals](#), [Information and Privacy Commissioner of Ontario \(2019\)](#), [Succession planning to help prevent abandoned records](#).

☑ **Managing difficult decisions and relationships as an owner:** How should difficult situations that may involve conflicts of interest or high-risk service activities be navigated?

Resources: [Decision-Making Framework](#), [Standard for the Prevention and Management of Conflicts of Interest](#)

☑ **Discontinuing services:** What are the obligations when discontinuing services?

Resource: [Discontinuing Services](#)

☑ **Fees/billing practices:** How can fairness, equity, and transparency be incorporated into billing practices?

Resource: [Standard for Record Keeping](#)

☑ **COTO employment profile:** Does employment information need updating?

Resource: [Registration Services for the College of Occupational Therapists of Ontario](#)

Private Practice

Other resources: What other resources about occupational therapy and private practice are available?

Resources: Ontario Society of Occupational Therapists (<https://www.osot.on.ca>), Canadian Association of Occupational Therapists (<https://caot.ca/>)

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