Newfoundland & Labrador Occupational Therapy Board

PRIVATE PRACTICE GUIDELINES FOR OCCUPATIONAL THERAPISTS IN NEWFOUNDLAND AND LABRADOR

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1. Responsibilities to the Profession

(1) Recognize that the self-regulation of the profession is a privilege and that each member has a continuing responsibility to merit this privilege.

(2) Teach and be taught.

(3) Avoid impugning the reputation of colleagues for personal motives; however, report to the appropriate authority any unprofessional conduct by colleagues.

(4) Be willing to participate in peer review of other occupational therapists and to undergo review by your peers.

(5) Enter into associations with others only if you can maintain your professional integrity.

(6) Collaborate with other occupational therapists and health professionals in the care of clients.

2. Business Practice Standards

(1) The occupational therapist has an obligation to be a good corporate citizen who abides by all applicable municipal, provincial and federal health and safety codes, legal requirements and societal conventions.

(2) The occupational therapist is obliged to ensure a safe, accessible and comfortable environment with reasonable accessibility for clients and employees.

(3) Client Records

a) The member shall ensure that documentation is clear and accurate, satisfying optimum client care and legal requirements.

b) The client health record must include the following:

- (i) The client's name and address;
- (ii) The date of each of the client's visits to the member;
- (iii) The name and address of the referring individual as well as the primary care physician and other allied health professionals currently involved in care, when this is relevant; and
- (iv) A history of the client pertinent to the referral.

c) In addition, the client record shall:

- (i) Represent complete and up to date information about the therapeutic intervention provided by the therapist themselves;
- (ii) Be legible;
- (iii) Be written in permanent ink;
- (iv) Have all corrections initialed;
- (v) Use a clear and logical format;

(vi) Be secured and kept together;
(vii) Be recorded at the time or within 30 days. Late entries should be recorded as such;
(viii) Identify the author; and
(ix) Be kept confidential.

d) Records must be stored securely.
e) Records must be destroyed in a manner that ensures confidentiality.

(4) Computerized Records
a) Computerized health information is subject to the same requirements as section 2.(3) and with provincial and federal legislation.
b) Data shall be protected so that it cannot be altered or purged without proper authority.
c) There will be controlled access to computer facilities.
d) Backup copies of files are to be stored in a physically separate and secure area.

(5) Referral
(a) Referral for Occupational Therapist services can be received from health care providers; claims adjudicators; employers; client advocates (eg lawyers, paralegals, community support groups); family members of clients; or the client themselves.
(b) The Occupational Therapist should liaise with any alternate health care providers whom are relevant and may influence the Occupational Therapy process before or during treatment.
(c) The occupational therapist should identify prior to assessment who will ultimately be the paying agent. The paying agent becomes a secondary client in the process. If there are specific parameters to the assessment as identified by the paying agent, this should be clearly noted on the file and to the client if appropriate.

(6) Consent to Treatment
(a) Occupational therapists must document the consent of the client for any services performed, including consent for involvement of a non-licensed practitioner in their treatment. They must also document the consent of the client for release of information to any party, particularly the paying agent.
(b) It is essential that the client's consent is obtained in order to release information to any party payers. The consent should include information which may be released; to whom information may be released; client's signature (witnessed); and date.
(c) The occupational therapist must ensure the reports sent to referral sources are professional, easy to read, provide the information the reader needs and include your name and means of contact.
(d) In instances where the report will be sent by the Occupational Therapist to non medical agencies (e.g. the employer), care should be taken to ensure that extraneous confidential information is protected and/or that appropriate consent is obtained.

(7) Record Keeping
(a) Records must be maintained by the private practitioner and / or the organization in whole for which the private practitioner is providing contracted

services for a period of 7 years. Further copies of the file or report should not be provided unless consent is given from the paying agency. When the client or an agent of the client seeks a copy as a third party, they should be directed to the original paying agency for a copy.

(b) Contractual Agreements and Reports for Third Party Purchasers: Determine in advance exactly what reports must be provided to satisfy third-party agencies, insurance companies or contracted facilities. The client's informed consent must be obtained for release of this information.

(c) Accurate, current and confidential records should be kept of all services provided with sufficient information for monitoring, evaluating and justifying the services[6].

(d) Records should be maintained for a period sufficient to ensure continuity of care and to be in compliance with legal requirements[7]. This time frame is generally 7 years.

(e) Client records must be stored and disposed of in a manner which protects confidentiality[8]. In the case of legal matters, there is no obligation for occupational therapists to produce copies of original notes or records without a court order or summons[9].

(f) Where only a copy of records is requested by a court order, there is no obligation to provide a written or oral opinion.

(8) Miscellaneous Documentation Information

(a) Every occupational therapist who is registered as a practicing member in good standing is entitled to use the initials O.T. (R)NL following his/her signature on all official documents[10].

3. Fees / Compensation / Gratuities

(1) It is unethical for the occupational therapist to conceal or to confuse the ultimate cost of the service that he/she undertakes to supply.

(2) Charges must be based strictly upon the services provided and not according to whom is paying the bill unless otherwise specified by specific agreement or preferred provider Memorandum of Agreement.

(3) The invoice must not misrepresent the products or services provided.

(4) When relevant advice the referral agent or client in advance to the provision of services and/or any relevant billings when there may be some concern about the overall cost of service. Information to include:

(a) The total hourly cost of the service;
(b) The specific terms and conditions relevant to payment;
(c) Any penalties for non-attendance or non-payment;
(d) If payment will be required in advance of a requested service; and
(e) That a prescription may be required for 3 rd party reimbursement.

(5) All records (invoices, receipts, statements etc) must contain accurate information with respect to names, dates, services and so on.

(a) It is unethical for the occupational therapist to alter or to conceal information (e.g., provide a receipt which misstates the actual amount owing, or confirms payment before payment is actually received) as such action is fraudulent and the intention is to deceive.

(6) In certain cases, an occupational therapist may justifiably add an administration fee for third party billings, if the fee is a reflection of a real cost of administering the service. Any administration fee must be fully disclosed on the invoice and must not be hidden within the cost of the products.

(7) It is unethical for the occupational therapist to promise to share any fees or compensation received in the course of doing business with suppliers, referring professionals, clients or other individuals or firms.

(8) Commercialization:
- (a) The principal function of the occupational therapist is to provide a specific professional service, which is to assist clients with their functioning at home, work, school or itheir environment.
- (b) The occupational therapist may also function to provide other related commercially available products which facilitate functioning.
  - (i) It is the responsibility of the occupational therapist to distinguish between the professional and the commercial functions he/she performs so that the public will be aware of the difference.

4. Solicitation of Clients

(1) In accordance with the tradition and the practice of other professions, it is unethical for the occupational therapist to solicit the patronage of individual clients, by any means not compliant with the advertising guidelines
- (a) Any occupational therapist moving from one private business to another should not solicit the referral agents of the previous company from where they departed. It is appropriate to notify customers or colleagues where the therapist is now located, but not to directly ask for them to move their business from the previous employer.

(2) It is permissible for the occupational therapist to provide information about his experience, training, education and specialization to physicians, other allied health personnel/ agencies and organizations that could value from occupational therapy intervention.

5. Advertising

(1) Definition of Advertising/Advertisement:
- (a) Any form of communication whose purpose or effect is to promote the member's practice
- (b) Advertising may include, but is not limited to the following formats: Newspaper articles, Interviews, Newsletters, Brochures, Business cards,

Signs, Infomercials, Promotional materials on the internet, and Telephone listings.

(c) The legitimate aim of advertising is to inform the public of the availability and range of services of occupational therapists.

(2) Basic Principles:
The type of advertising utilized by occupational therapists and organizations can weaken or strengthen the profession's image. A dignified arrangement of advertising should be used to publicize the nature of services that are available.

(a) Advertising of a professional service is meant to inform, not to coerce.
(b) The content must be accurate, complete, easily understandable and demonstrably truthful.
(c) All credentials and professional affiliations must be clearly delineated.
(d) Advertising should not stimulate a demand for unnecessary health care services.

(3) Members must **not** advertise in a way that:

(a) Denigrates members of the same or a different profession;
(b) Promotes the excessive or unnecessary use of occupational therapy services, deliberately for personal or financial gain;
(c) Is unprofessional or undignified;
(d) Uses incentives to entice clients into his/her facility. These would include (but are not limited to) free assessments, discounts of any kind, satisfaction guaranteed or money refunded, etc;
(e) Is misleading or deceptive.

(4) Acceptable items for inclusion in advertising by members can include:

(a) Name of business;
(b) Qualifications of the practitioner;
(c) Membership affiliations;
(d) Services offered by the individual practitioner or the practice;
(e) The location of the practice;
(f) The hours of operation;
(g) Telephone number(s), fax numbers, e-mail and website addresses;
(h) The number of years the practitioner has been practicing;
(i) Educational information;
(j) Languages spoken;
(k) Accessibility for the disabled;
(l) Credit cards accepted;

(5) Members are responsible for ensuring that all advertisements comply with the advertising guidelines at all times. Longstanding advertisements (such as Yellow Pages) should be reviewed annually to ensure compliance.

(6) In cases where the practitioner is operating a retail (commercial) outlet in addition to their occupational therapy (professional) practice, there must be a definite distinction between advertising for the retail operation and the occupational therapy practice. If the retail facility is in operation under the name of the occupational therapy practice, then all restrictions will be applicable to both.

(7) Unacceptable items to advertise (Note: This potential violation list includes, but is not limited to the following:

(a) Prices of products or services including phrases such as “free assessment/evaluation”, discounts or coupons for professional services;
(b) Unsupported claims;
(c) Misrepresentation of credentials;
(d) Testimonials of medical professionals, where a client is identified;
(e) References to “recovering costs ” or “claimable through health insurance”;
(f) Names of specific persons/celebrities treated in the context of making your business look superior to those of your colleagues.

6. Clinical Research

(1) Ensure that any research in which you participate is evaluated both scientifically and ethically and is sufficiently planned and supervised that research subjects are unlikely to suffer disproportionate harm.

(2) Inform the potential research subject, or proxy about the purpose of the study, its source of funding, the nature and relative probability of harms and benefits, and the nature of your participation.

(3) Before proceeding with the study, obtain the informed consent of the subject, or proxy, and advise prospective subjects that they have the right to decline or withdraw from the study at any time, without prejudice to their ongoing care.

(4) It is unethical for the occupational therapist to retard, inhibit or restrict research and development.

7. Professional Designations:

(1) The occupational therapist may only use those professional designations that he has duly earned and maintained in accordance with the regulations of the appropriate certifying and governing bodies.

(a) It is unethical for the occupational therapist to represent himself/herself in any way that could mislead the public as to his qualifications.

8. Professional Courtesy:

(1) It is unethical for the occupational therapist at any time, and under any circumstances to indulge in actions or statements that can be construed by the health care provider/referring agent, the client or any other person as being critical of the service that another practitioner provided to the client.

(2) It is unethical to comment on products/services provided in circumstances not witnessed by the practitioner.

9. Professional Misconduct:

(1) It is unethical for the occupational therapist to engage in behavior that may be construed as inappropriate and/or unprofessional. Examples of professional misconduct shall include, but not be limited to the following:

(a) Negligence, i.e., an act or omission in the carrying out of the work of a practitioner that constitutes a failure to maintain the standards that a reasonable and prudent practitioner would maintain in the circumstances;
(b) Failure to make reasonable provision for the safeguarding of life, health or property of a person who may be affected by the work for which the practitioner is responsible;
(c) Failure to make responsible provision for complying with applicable statutes, regulations, standards, codes, guidelines, by-laws and rules in connection with work being undertaken by or under the responsibility of the practitioner;
(d) Breach of the Board's By-laws, policies (written or implicit), or a breach of the Code of Ethics;
(e) Undertaking work the practitioner is not competent to perform by virtue of his training and experience, or which falls outside the profession's Scope of Practice;
(f) Failure to make prompt, voluntary and complete disclosure of an interest, direct or indirect, that might in any way be, or be construed as, prejudicial to the professional judgment of the practitioner in rendering service to the client;
(g) Accepting compensation in any form for a particular service from more than one party (where the compensation accepted exceeds the true total);
(h) Conduct or action relevant to the occupational therapy profession that, having regard to all circumstances, would reasonably be regarded by the occupational therapy profession as disgraceful, dishonorable or unprofessional;
(i) Demonstrating any form of discrimination, lack of respect toward clients; colleagues; medical professionals; insurance; education or government representatives while practicing, or representing the association, directly or indirectly, in any capacity;
(j) Abusing a client verbally, physically or emotionally;
(k) Practicing the profession while impaired by any substance;
(l) Practicing the profession while in a conflict of interest.

10. Training, Qualifications and Competence

(1) Occupational Therapists must:

(a) Maintain up to date knowledge and skills
(b) Be registered with Newfoundland and Labrador Association of Occupational Therapists, Canadian Association of Occupational Therapists and hold a valid license with the Newfoundland and Labrador Occupational Therapy Board in order to practice in Newfoundland and Labrador

(c) Maintain malpractice insurance as established by the Board. Malpractice insurance is available for clinics and for individual practitioners to members of the Canadian Association of Occupational Therapists.

(2) Occupational Therapists should:

(a) Limit themselves to their demonstrated areas of professional competence. The occupational therapist is responsible for maintaining certification in specialized areas of practice which requires ongoing continuing education (e.g. ergonomics, functional assessment, train the trainer, feeding, etc.).

(b) Refer clients who require services outside their area of competence to appropriate alternate professional services.

(c) Seek legal counsel for guidance to:

I. Establish a practice within the confines of existing legislation which includes but is not limited to: health, business, professional, constitutional, environmental, and privacy legislation, and

II. To ensure confidentially of client records, appropriate storage and documentation of files, appropriate financial records etc.

References

1. The Association of Occupational Therapists of Manitoba. (1995). By-Law Respecting Code of Ethics.

2. Canadian Association of Occupational Therapists. (1989). Role of Occupational Therapy in Private Practice. Position Statement. Toronto: CAOT.

3. The Canadian Association of Occupational Therapists. (1991). Occupational Therapy Guidelines for Client Centered Practice. Toronto: CAOT.

4. Canadian Association of Occupational Therapists. (1993). Conflict of Interest Clause in Code of Ethics. CAOT.

5. Continuing Professional Education, CAOT. (1995). Unpublished material for proposed Private Practice Manual. Toronto.

6. New Brunswick Association of Occupational Therapist. (1994). A Guide to Creating Career Opportunities for Occupational Therapists. Fredericton: NBAOT.

7. The Occupational Therapists Act. (1986). Occupational Therapists Regulation. Regulation 49 / 86. Winnipeg: Statutory Publications Province of Manitoba, Winnipeg.

8. The Occupational Therapists Act. (1987). Chapter 05. Winnipeg: Statutory Publications, Province of Manitoba, Winnipeg.

9. Ordre des Ergotherapeutes du Quebec (OEQ) (1995). Guidelines for Practice of Occupational Therapy. OEQ, 1259 rue Bureau 710, Montreal, Quebec H2L 4C7

10. Professional Issues Division of the Ontario Society of Occupational Therapist. (1994). Private Practice Guidelines for Occupational Therapists in Ontario: Level 1. Toronto: OSOT.

11. Pedorthic Association of Canada (2002) Standards of Practice Document

12. These guidelines should be used in conjunction with the Occupational Therapists Act. (C.C.S.M 05), and Regulations (Manitoba Regulation 49 / 86); the Association of Occupational Therapists (CAOT) Code of Ethics; Guidelines for Client Centred Practice of Occupational Therapy (CAOT, 1985); and the Position Statement on Role of Occupational Therapy in Private Practice. (CAOT 1989) which are all fully documented in the resource list.

13. AOTM Code of ethics 1995.

14. CAOT Code of Ethics. Ottawa: Canadian Association of Occupational Therapists, 1993.

15. Occupational Therapists Act of Manitoba sections {1 (a) and 1 (b)}, 1986, 1987.

16. Occupational Therapists of Manitoba 1986.

17. Canadian Association of Occupational Therapists. Guidelines for Client Centered Practice of Occupational Therapy. Health and Welfare Canada, Ottawa, 1983.

18. The Occupational Therapists Act in the Statutes of Manitoba states that actions may be brought against a member of up to two years after termination of services (Part X Article 48 Limitation of actions).

19. Personal Health Information Act SNL2008 P-7.01 Queens Printer: St. John's, Newfoundland and Labrador.

20. Occupational Therapists Act of Manitoba section 26 Production of books, documents, etc.

21. The Occupational Therapists Act (1986). Regulation 7(2).