



Guidelines for professional conduct and practice

1. Introduction

The Occupational Therapists Board of Queensland is the statutory authority established to enact the provisions of the *Occupational Therapists Registration Act 2001*, *Occupational Therapists Registration Regulation 2001* and the *Health Practitioners (Professional Standards) Act 1999*.

Under s11 of the *Occupational Therapists Registration Act 2001* the Board has, amongst others, the function of promoting high standards of practice of the profession by occupational therapists.

These *Guidelines for Professional Conduct and Practice* have been approved by the Board as a reference guide to assist occupational therapists in conducting their practice to the degree of professionalism expected by the general public and members of the profession. The *Guidelines* are not an exhaustive list of an occupational therapist's obligations under the Act or the law generally. Rather, the *Guidelines* should be used by occupational therapists as a tool to assist in ensuring their conduct is not of a lesser standard than that which might reasonably be expected of an occupational therapist by the public or the occupational therapist's professional peers.

Unsatisfactory professional conduct¹

Any dereliction of professional duty and/or responsibility or the abuse of any of the privileges and opportunities afforded by practising as an occupational therapist may give rise to an allegation of unsatisfactory professional conduct. The question of whether any particular course of conduct amounts to unsatisfactory professional conduct is a matter determined by the Board (and other relevant bodies)* after considering the evidence in each case.

In determining whether the conduct of an occupational therapist amounts to unprofessional conduct, the Board will look to interpreting the meaning of unsatisfactory

professional conduct by applying, amongst others, the following test:

The test to be applied is whether the conduct violates or falls short of, to a substantial degree, the standard of professional conduct observed or approved by members of the profession of good repute and competency.²

In this regard, the *Guidelines* provide occupational therapists with guidance on what is considered by the Board as appropriate professional conduct or practice for the profession. Whilst these *Guidelines* have not been proclaimed under the Act as a standard for the profession, this will not relieve an occupational therapist from a duty to follow the *Guidelines* whether or not an occupational therapist agrees or disagrees with application of the *Guidelines* to their practice of occupational therapy.³ Occupational therapists should ensure that they comply with both the purpose and spirit of the *Guidelines*.

In applying the *Guidelines* to occupational therapy practice, occupational therapists should be aware that the *Guidelines* are subservient to the various legislative instruments and laws which govern the registration and practice of occupational therapists in Queensland.

This means that, where the *Guidelines* contradict a provision of any law of Queensland or the Commonwealth, an occupational therapist must comply and discharge their obligation under the law before applying the principles contained in these *Guidelines*.

Sometimes, when they are applied in particular situations, the principles contained in these *Guidelines* may come into conflict with other principles in the *Guidelines*. This may occur because in the day-to-day practice of occupational therapy, complex situations arise requiring, in some instances, an occupational therapist choose from competing but equally important demands. This may then require the choice between two principles. When conflicts arise, they require careful balancing. It may be difficult to determine which principle should take precedence in any given situation.

In situations of competing principles or where an occupational therapist is in conflict with these *Guidelines*, an occupational therapist has a positive duty to the public and the profession to avail himself or herself of advice from an occupational therapist or a health professional who is regarded as having the necessary experience to assist. This is the first step for an occupational therapist to demonstrate they have taken all reasonable measures to discharge their duties under the law.

¹ For the definition of unsatisfactory professional conduct see section 4 of these *Guidelines*.

² *Medical Board of Queensland v Cooke* [1992] 2 Qd R 608 at 616.

³ *Psychologists Board of Qld v Robinson* [2004] QCA 405 (29 October 2004).

* Other relevant bodies include professional conduct review panels and the Health Practitioners Tribunal.



The public and the profession have a right to expect occupational therapists to conduct themselves in a manner which does not bring the profession into disrepute. To act other than in accordance with the *Guidelines* may result in a complaint to the Board which the Board has a duty to investigate. Such a complaint could result in a charge of professional misconduct being laid under the provisions of the *Health Practitioners (Professional Standards) Act 1999*.

Overview

An occupational therapist should demonstrate the following principles when dealing with clients:

Competence:

A client should expect safe and competent service.

Respect:

A client should be treated with respect and courtesy.

Communication:

A client has the right to be listened to and to be given information in an appropriate manner.

Informed consent - service:

A client should be informed at the commencement of service of any foreseeable implications or risks and complications that may arise and procedures likely to be used. If, during the course of treatment, changes are made to the service/s received by the client, consent should again be obtained for the change to the service/s. A client should receive accurate and up-to-date information particular to their situation and be given the opportunity to ask questions about any proposed service.

Informed consent – costs:

A client should be fully aware of the cost of services at the outset. Informed financial consent is a pivotal aspect of service delivery.

Privacy and confidentiality:

A client's privacy must be respected. Confidentiality of client information must be upheld.

Treatment:

Competent clients have the right to decide whether or not to undergo treatment.

2. Ethical principles

2.1 Obligations to the public

The public is entitled to receive safe, effective and ethical occupational therapy services performed by knowledgeable, skilled and accountable practitioners. Taking into account the circumstances in which an occupational therapist is engaged, each occupational therapist will use an approach for each client which recognises the client's needs and background and his or her right to choose from a range of options. The occupational therapist shall not take advantage of clients physically, psychologically, emotionally, or financially.

The registrant shall:

- (a) commit to the highest level of professional efficacy through the maintenance and application of current, relevant knowledge and skill;
- (b) uphold the principle of informed consent, including the client's right to choose from a range of options;
- (c) demonstrate respect for the physical, psychological and spiritual well-being of a client;
- (d) not provide occupational therapy services when impaired by alcohol, drugs or other substances, or any illness that could put the client at risk or affect the delivery of a competent service;
- (e) treat all clients equitably and with respect and courtesy;
- (f) communicate relevant information clearly to the client through verbal, non-verbal and/or written means while also establishing a feedback process to ensure mutual understanding;
- (g) identify the competing interests of different clients, objectively prioritise those interests and address their needs;
- (h) not exploit any relationship established as a therapist to further his or her own physical, psychological, emotional, financial, political or business interests at the expense of the best interests of the client; and
- (i) maintain a respectful relationship with members of the public to facilitate awareness and understanding of the profession of occupational therapy.

2.2 Obligations to the profession

The Board expects its registrants to maintain standards of practice and conduct in a professional and ethical



manner. Registrants are obligated to comply with the Act and Regulations, adhere to the guidelines of the Board and maintain professional competency that will ensure the delivery of safe, quality occupational therapy services.

The registrant shall:

- (a) maintain professional integrity and conduct all professional activities, programs and relations honestly and responsibly;
- (b) report to the Board:
 - (i) any alleged unethical conduct, incompetent or unsafe practice of occupational therapy by another registrant; and
 - (ii) any practice of occupational therapy or misuse of the title “occupational therapist” by a person not registered by the Board;
- (c) as an employer of occupational therapists, ensure that employees are registered with the Board and continue to maintain current registration;
- (d) as a partner, former partner, locum, employee or previous employee, respect the ownership and confidentiality of the principal practitioner’s practice records when establishing a new practice;
- (e) maintain awareness of the *Occupational Therapists Registration Act 2001*, *Occupational Therapists Registration Regulation 2001* and the *Health Practitioners (Professional Standards) Act 1999*, these *Guidelines of Professional Conduct and Practice*, and any other Board guidelines issued from time to time, and comply with same; and
- (f) avail themselves of legislative developments that may affect the way in which they practise occupational therapy.

2.3 Obligations as professional practitioners

Each registrant must demonstrate competence. The registrant must continue to update professional knowledge and skills relevant to his or her area of practice.

Registrants shall collaborate with professionals and others as appropriate with a goal to enhancing client care.

The registrant shall:

- (a) provide competent, ethical service to clients;
- (b) participate in ongoing professional development and integrate relevant learning into his or her area of practice;

- (c) develop and maintain collaborative relationships and exchange knowledge as required in the interests of a client’s health and well being, while respecting client confidentiality and legislation and/or common law relating to consent to treatment; and
- (d) act at all times with regard for other health professionals and uphold the profession of occupational therapy.

3. Standards of professional conduct and practice

3.1 Professional accountability

As regulated professionals, occupational therapists are required to clearly demonstrate that they serve the client’s best interest. Accountability means that the therapist is responsible for his or her actions. Therapists have an obligation to be able to account for and explain their actions. A competent therapist is aware of his or her strengths and limits, makes appropriate choices consciously and deliberately, and is able to explain why he or she took a particular course of action.

The registrant shall:

- (a) be responsible for ensuring his or her own competence. The onus is on the individual therapist to seek out and use assistance and resources on an ongoing basis to remain competent and provide quality care (such as practice/clinical supervision, participation in courses, seminars, conferences, workshops);
- (b) be responsible for defining his or her own scope of practice, including determining the extent to which he or she practises within the scope of the profession and the extent that legislation, regulations, standards, competencies, guidelines and policies related to the practice of the profession apply to his or her practice;
- (c) recognise the parameters of his or her professional competence and avoid going beyond the limitations of his or her knowledge and skills. For clients whose needs fall outside the domain of the therapist’s competence, assistance and resources must be sought and used to provide the required services, or the client must be referred or recommended for referral to appropriate professional services;
- (d) not discriminate against clients or others with whom he or she has professional contact (such as families, staff, colleagues) on the basis of ethnicity, handicap, national origin, age, gender, sexual preference, religion, political beliefs or status in society;



- (e) ensure that when delivering a service, consideration is given to the cultural background of the client;
- (f) act in accordance with the highest standards of professional integrity and impartiality. Therapists must not exploit professional relationships for personal gain or for imposing religious or political beliefs;
- (g) update his or her knowledge and skills before re-entering the workforce as an occupational therapist if he or she has not practised occupational therapy for a period which exceeds an amount of time prescribed by the relevant Act or Board. This may be at the direction of the Board and involve supervised practice (refer to the Board's *Guidelines on Registration (Supervision)* and policy on *Recency of Practice*);
- (h) ensure he or she is covered by an insurance policy (through his or her employer or otherwise) for negligent acts and omissions (professional indemnity) and liability to third parties (public liability);
- (i) when supervising a student or person seeking full registration under the Act:
 - (i) ensure that clients are aware of the student's status or person's conditional registration status;
 - (ii) be directly responsible for care and treatment provided to clients;
 - (iii) provide appropriate training and feedback in accordance with the university's or Board's guidelines; and
 - (iv) ensure that, at the start of the supervisory period, the student or conditional registrant understands and, thereafter, adheres to the professional and ethical standards of occupational therapy practice in accordance with these *Guidelines*;
- (j) not over-service a client. It is the responsibility of the therapist to treat the client only while occupational therapy can be shown to be of benefit clinically with positive demonstrative outcomes. Care that is not justified constitutes over-servicing;
- (k) not directly induce or solicit clients from the practice of another therapist;
- (l) not overstate or understate the seriousness of a client's condition;
- (m) treat colleagues and students with respect, courtesy, fairness and good faith; and
- (n) when engaged in study and research, be guided by and be familiar with the World Medical Association *Declaration of Helsinki*, and the National Health & Medical Research Council (NHMRC) *Statement on Human Experimentation*. Where appropriate, researchers should approach relevant ethics committees for advice or approval.

3.2 Transparency

Transparent practice requires full disclosure, which ensures integrity within the client-therapist relationship and requires clear, open and thorough communication. It is inappropriate to withhold information that may impact on the client's ability to become involved as an informed participant. The therapist is responsible for ascertaining the nature and extent of information to be shared and with whom it needs to be shared.

The registrant shall:

- (a) practise in an open, professional and objective manner. This involves recognising any potentially competing expectations of the client and other stakeholders (family, team members, payer), including self-interest;
- (b) not misrepresent his or her role or competence to the client. The therapist will represent his or her knowledge, skills and abilities in a clear, open manner;
- (c) not misrepresent professional qualifications, education, experience or affiliations. Descriptions of practice, experience, techniques and training (such as training in paediatrics, service with a focus on children) are permitted, in that they support the public's ability to make an informed choice;
- (d) recognise the importance of clear understanding with respect to financial matters with clients. Arrangements for payments and payment rates should be settled at the beginning of a therapeutic relationship. The therapist's bill must reflect services actually rendered;
- (e) be cautious in prognosis, act only on up to date information and not exaggerate the efficacy of his or her services or give specific guarantees regarding the results to be obtained from occupational therapy treatment;
- (f) not advertise or make a statement that, in any way:
 - (i) is false, misleading or deceptive;
 - (ii) is designed to mislead or deceive;
 - (iii) creates an unjustified expectation of beneficial treatment;



- (iv) promotes the unnecessary or inappropriate use of his or her services;
 - (v) claims that he or she has unique prominence in the practice of occupational therapy; or
 - (vi) is likely to bring the profession into disrepute;
- (g) understand that an advertisement or statement may be considered to bring the profession into disrepute if it:
- (i) is disparaging of any other profession or professional; or
 - (ii) contains material of a rude, offensive or undignified nature;
- (h) ensure that advertising materials or statements do not intend, or are not likely, to appeal to a client's fears, anxieties or emotions concerning his or her treatment or condition or the possible results of his or her failure to obtain the offered services;
- (i) not pay or give anything of value to a representative of the media, commercial supplier or anyone else in anticipation of, or in return for, professional publicity in a news item, or for receiving or making a referral; and
- (j) only use occupational therapy practice names which are not misleading or deceptive, or likely to mislead or deceive. Practice names shall not be vulgar or sensational, such as would be likely to adversely affect the standing of the occupational therapy profession.
- (iii) to protect the client from harm;
 - (iv) where the client has given written or verbal permission to disclose the information;
 - (v) when a client has given express permission to disclose the information to a caregiver or other; or
 - (vi) as required by law;
- (b) report all abuse or neglect, even if only suspected, involving children under the age of 18 to the Department of Child Safety and, in the case of an adult who consents to the disclosure of abuse, to an appropriate authority;
- (c) report all cases of alleged sexual abuse by a regulated health professional to the registration Board of the alleged abusing professional. In the event of alleged sexual abuse by a non-regulated provider, a therapist should report the information to an appropriate authority (namely police, employer) if the client consents;
- (d) take reasonable steps to inform a third party (such as police, person at risk, client's general practitioner) in the event the therapist has reason to believe that a client will seriously harm another individual or themselves; and
- (e) comply with the provisions of the Federal *Privacy Act 1988* and in particular the *National Privacy Principles* which deal with the collection, use, storage and correction of sensitive health information. Specific information for collection of health information can be found at www.privacy.gov.au.

3.3 Confidentiality and privacy

Occupational therapists are entrusted with personal and often sensitive information about their clients. The therapist has a responsibility to respect, secure and protect this information subject to any legal requirement to the contrary (such as mandatory reporting). Even when sharing with those individuals who have the appropriate authority to receive it, the quantity and content of information provided should reflect a principle of a "need to know" basis only.

The registrant shall:

- (a) not voluntarily disclose to any third party, either verbally or in writing, information obtained in his or her professional relationship with a client except:
 - (i) to the legal guardian or administrator of the client;
 - (ii) to other relevant health professionals involved in the treatment of the client;

3.4 Professional boundaries

A professional-client relationship is an unequal relationship and the therapist is responsible for establishing and maintaining professional boundaries with his or her clients. The professional is in a position of power because of the knowledge he or she holds and the client's need for that knowledge. To ensure a trusting relationship, the professional must not misuse or abuse the position of power by crossing boundaries. To maintain healthy trusting professional relationships, the therapist must ensure his or her own competence, integrity and dependability.

The registrant shall:

- (a) not exploit a trust relationship with clients, students and/or subordinates;



- (b) be responsible for setting and maintaining professional boundaries, given the significant power imbalances in a therapist-client relationship. The client's willingness to participate or consent is not accepted as a defence;
- (c) not enter into a personal relationship (such as dating, sexual relationship) or violate professional boundaries with a current client, or someone with whom the client has a significant personal relationship (such as a child's parent);
- (d) never
 - (i) have sexual intercourse with a client;
 - (ii) initiate any form of sexual conduct in the client's presence;
 - (iii) make any inappropriate physical contact with a client;
 - (iv) make sexual proposals to a client;
 - (v) tell a client of his or her own sexual problems, desires, practices, preferences or fantasies;
 - (vi) show disrespect to a client's sexual orientation; or
 - (vii) make sexually suggestive comments or innuendo to a client;
- (e) on recognising the potential for professional boundary violations by either the therapist or the client (such as feelings of attraction, excessive personal disclosure), discuss the issue with the client and if unable to resolve it, transfer the client to another therapist; and
- (f) prior to entering into a relationship with a former client or someone with whom the client has a significant personal relationship, thoughtfully and carefully consider the implications.

The Board has endorsed the position stated in the document entitled *Queensland Nursing Council and Health Practitioner Registration Boards' Statement on Sexual Relationships between Health Practitioners and their Patients..*

3.5 Effective communication

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

The registrant shall:

- (a) subject to the consent of the client, ensure that there is a clear, mutual understanding of the therapist's plan by all stakeholders involved with the client (such as the client, other professionals, care givers, referral source, payers);
- (b) not discuss or offer an opinion in a disparaging way on the competency, quality of service provided or methods used by another professional or an agency without deliberation and thoughtful consideration of all issues.

Prior to offering a professional opinion about the competency or services provided by another therapist, another professional and/or another agency, a therapist should consider:

- (i) if he/she has sufficient information;
 - (ii) the quality of that information;
 - (iii) his/her competence in evaluating the information;
 - (iv) their own motivation to provide the opinion;
 - (v) the potential impact on the client; and
 - (vi) who has requested the opinion and for what purpose; and
- (c) fully inform the client of the purpose and process of any testing/assessment and how the results will be used prior to its administration.

3.6 Consent and informed consent

Informed consent by the client promotes free choice. It supports an honest, client-centred approach that helps to ensure the client's best interests are served. Consent is defined as the client's permission to proceed with an agreed course of action. Informed consent requires that the person making the decision receives all the information that a reasonable person in the same circumstances would require in order to make a decision, including alternative options and having the therapist respond to any reasonable requests for additional information about the matter.

If the client is not competent to give informed consent, appropriate steps must be taken to have a guardian appointed for the client in accordance with current legislation.

The registrant shall:

- (a) obtain consent to treatment, either in writing, or in rare cases, orally or by implication. There should be documented evidence of such consent for occupational therapy services;



- (b) respect the right of the client either to consent or refuse to consent to participate in occupational therapy services;
- (c) respect the client's right to know the nature of occupational therapy generally and the specific services being provided both initially and on an ongoing basis. The therapist, at the earliest opportunity, should ensure the client understands and appreciates:
- (d) comply with current legislation where it exists (such as *Guardianship and Administration Act 2000*) and adhere to the principles of informed consent for all occupational therapy services provided to the client.

3.7 Conflict of interest

A conflict of interest arises when the therapist has a relationship or interest that could be seen as improperly influencing the therapist's professional judgement or ability to act in the best interests of the client. Conflicts may present in different ways and if identified, whether they are real or perceived, need to be addressed.

The registrant shall:

- (a) not allow the pursuit of financial gain or other personal benefit to interfere with the exercise of sound professional judgement and skill;
- (b) not become involved in fraudulent or unethical activity related to his or her professional practice;
- (c) make every effort to avoid dual relationships (such as treatment of family or friends) that could impair his or her judgement or increase the risk of exploitation; and
- (d) only provide professional services to family and friends if there is full disclosure of all potential issues to all involved stakeholders. A thorough and objective intervention must occur.

3.8 Keeping of records

A registrant is responsible for the content of the record related to the occupational therapy service. The record must reflect the registrant's professional analysis and/or opinion, intervention and recommendations. Occupational therapists need to avail themselves of their workplace policies relating to the disclosure and distribution of client information.

The registrant shall:

- (a) keep records and reports clearly, concisely, accurately and objectively for the information of

professional colleagues, for legal purposes and to record plans and interventions for clients;

- (b) bearing in mind the circumstances in which the service is being provided, for individual and ongoing consultations it is normally expected that client records contain the following:
 - (i) the client's medical history, including the presenting complaint, if appropriate;
 - (ii) the therapist's initial and any subsequent examination of the client and the findings;
 - (iii) assessment of the client and the client's diagnosis and any changes to that assessment or diagnosis from time to time;
 - (iv) the proposed treatment goals and management plan and any modifications;
 - (v) the treatment given to the client on each occasion;
 - (vi) the client's response to the treatment, both subjective and objective; and
 - (vii) any referrals made or other treatment, strategies or advice recommended or given to the client;
- (c) provide a copy of the health record where a request has been made by a client under the provisions of the *Federal Privacy Act 1988*. Occupational therapists should inform themselves of the obligations under the *Privacy Act 1988* (Cth); and
- (d) maintain records for the requisite period of time as governed by the relevant Act, depending on whether the occupational therapist works in a government agency or a private context.

4. Glossary of terms

The following definitions are intended to clarify the Board's interpretation of the following commonly-used terms and provide some additional context for their use in this document.

4.1 Client

The client (also referred to as "the patient") is the individual (or group of individuals) whose occupational performance has resulted in a request for occupational therapy service. It is the client to whom the therapist has a primary duty to apply the principles of practice. A competent client is a person who is able to demonstrate that they have legal capacity to judge whether the service/s to be provided are in their own best interest.



4.2 Competence

Competence is a complex interaction and integration of knowledge, skills and professional behaviours and judgement. It embodies the ability to generalise or transfer and apply skills and knowledge from one situation to another.

4.3 Incompetence

Incompetence is the professional care of a client that displays a lack of knowledge, skill or judgement or disregard for the welfare of the client of a nature or to an extent that demonstrates that the therapist is unfit to continue to practise or that the therapist's practice should be restricted.

4.4 Record

A record means information, however recorded (such as audio, video, diskette), generated by the occupational therapist or an individual supervised by the occupational therapist, pertaining to occupational therapy services provided by the occupational therapist. This includes, but is not limited to, therapy goals, progress toward goals, attendance and remuneration.

4.5 Unprofessional conduct

Unprofessional conduct includes:

1. improper or unethical conduct in relation to professional practice;
2. incompetence or negligence in relation to the provision of occupational therapy;
3. a failure to comply with the standards in these *Guidelines of Professional Conduct and Practice*; and
4. conduct that may constitute an offence under law.

4.6 Unsatisfactory professional conduct

Unsatisfactory professional conduct includes:

1. professional conduct that is of a lesser standard than that which might reasonably be expected of the registrant by the public or the registrant's professional peers;
2. professional conduct that demonstrates incompetence, or a lack of adequate knowledge, skill, judgement or care in the practice of the registrant's profession;
3. infamous conduct in a professional respect;
4. misconduct in a professional respect;

5. conduct discreditable to the registrant's profession;
6. providing a person with health services of a kind that are excessive, unnecessary or not reasonably required for the person's wellbeing;
7. influencing, or attempting to influence, the conduct of another registrant in a way that may compromise patient care;
8. fraudulent or dishonest behaviour in the practice of the registrant's profession; and
9. other improper or unethical conduct.

5. Useful websites

www.healthregboards.qld.gov.au

www.hqcc.qld.gov.au