



NBAOT GUIDELINES FOR THE PREVENTION OF SEXUAL ABUSE

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

The New Brunswick Association of Occupational Therapists (the Association) has adopted a position of zero tolerance toward all forms of sexual abuse within the client-therapist relationship. The client-therapist relationship is based on mutual trust, respect, professional boundaries, collaboration and communication.

Maintaining a professional relationship with a client is the only way an OT can remain objective when providing service and is necessary for the OT to ensure clients receive safe, effective, ethical care.

Any act of sexual abuse is a misuse of power and a betrayal of the client-therapist relationship. Accordingly, the Association will hold all OTs accountable for their behaviour with clients at all times. Any form of sexual abuse of the client under any circumstances is unacceptable and will not be tolerated.

As written in *An Act Respecting the New Brunswick Association of Occupational Therapists, 1988* it is considered sexual abuse and against the law for occupational therapists to have sexual relations with clients.

What is sexual abuse?

As stated in the Act:

29.5(1) Sexual abuse of a client by a member means

(a) sexual intercourse or other forms of physical sexual relations between the member and the client,

(b) touching, of a sexual nature, of the client by the member, or

(c) behaviour or remarks of a sexual nature by the member towards the client.

29.5(2) For the purposes of subsection (1), "sexual nature" does not include touching, behaviour or remarks of a clinical nature appropriate to the service provided. 1996, c.82, s.8.

The Act also states that:

29.6(1) A member who, in the course of practising the profession, has reasonable grounds to believe that another health professional has sexually abused a patient or client and who fails to file a report in writing in accordance with subsection (4) with the governing body of the health professional within twenty-one days after the circumstances occur that give rise to the reasonable grounds for the belief commits an act of professional misconduct.

29.6(2) A member is not required to file a report pursuant to subsection (1) if the member does not know the name of the health professional who would be the subject of the report.

29.6(3) If the reasonable grounds for filing a report pursuant to subsection (1) have been obtained from one of the member's clients, the member shall use his or her best efforts to advise the client that the member is filing the report before doing so.

29.6(4) A report filed pursuant to subsection (1) shall contain the following information:

(a) the name of the member filing the report;

(b) the name of the health professional who is the subject of the report;

(c) the information the member has of the alleged sexual abuse; and

(d) subject to subsection (5), if the grounds of the member filing the report are related to a particular patient or client of the health professional who is the subject of the report, the name of the patient or client.

29.6(5) The name of a patient or client who may have been sexually abused shall not be included in a report unless the patient or client or, if the patient or client is incapable, the patient's or client's representative, consents in writing to the inclusion of the patient's or client's name.

29.6(6) Section 29.5 applies with the necessary modifications to sexual abuse of a patient or client by another health professional

29.6(7) No action or other proceeding shall be instituted against a member for filing a report in good faith pursuant to subsection (1). 1996, c.82, s.8.

The term “client” refers to the individual who receives occupational therapy services from an OT. The term “member” refers to an occupational therapist registered with NBAOT.

OTs, like all health practitioners, enter into a unique relationship of trust and authority with their clients. The client-therapist relationship is an unequal relationship, resulting in a power imbalance in favour of the OT. The client is relying on the OT’s clinical judgement and experience to address health-related issues; the OT knows the client’s personal information and has the ability to influence the client’s access to other resources and services.

The impact of OT power and influence can be broad as the OT works in a system where client information, provided by the OT, has the potential to influence the perceptions of other service providers. If an OT uses this position of authority to violate professional boundaries, this is an abuse of power. The OT is responsible for setting and managing boundaries to ensure that the trust a client has placed in the OT is not betrayed.

These guidelines describe the expectations of conduct for OTs in managing the client-therapist relationship, specifically related to the prevention of sexual abuse.

NBAOT members are also responsible for following the NBAOT Guidelines for Professional Boundaries as well as the NBAOT Code of Ethics. These documents should be used to promote appropriate professional relationships, maintain appropriate boundaries in all circumstances and prevent sexual abuse of clients.

The Association will formally investigate all sexual abuse complaints or reports made against a member of NBAOT. When warranted, appropriate disciplinary action will be taken against the OT according to the legislation and regulations of the profession. Disciplinary action may include revocation of the OT’s membership, meaning removal of the right to practice and use the title of “occupational therapist”.

Application of the Guidelines for the Prevention of Sexual Abuse

The following guidelines describe the minimum expectation for OTs in the prevention of sexual abuse. The performance indicators listed below each guideline describe more specific behaviours that demonstrate the guideline has been followed. It is expected that OTs will use their clinical judgement to determine how best to meet client needs in accordance with the guidelines of the profession.

Specific Guidelines with Performance Indicators:

1. Establishing and maintaining professional boundaries:

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

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

Performance indicators:

An OT will:

- a) never sexually abuse a client or engage in any sexually abusive behaviours including:
 - sexual intercourse or other forms of physical sexual relations between the OT and the client;
 - touching of a sexual nature of the client by the OT; or
 - behavior or remarks of a sexual nature by the OT towards the client
- b) never enter into nontherapeutic relationships that could adversely affect an existing therapeutic relationship, or otherwise compromise the occupational therapist's objectivity, judgement or competence.

Examples include entering into nontherapeutic relationships with any of the following:

- a current client
- a former client, unless: **at least one year** has passed since the client-therapist relationship ended, and the power imbalance in the therapeutic relationship between the occupational therapist and the client no longer exists. Even if one year has passed since the client-therapist relationship ended, **never** engage in sexual relations or a sexual relationship with a former client in any of the following circumstances where: the client is vulnerable resulting in an increased power imbalance in the client-therapist relationship in favour of the occupational therapist, or the client-therapist relationship involved intensive interventions based on relevant factors such as the nature of the treatment, the frequency and duration of treatment, whether treatment was ongoing, the dependency of the client on the therapist and other relevant factors specific to the client; the client's occupational therapy involved psychotherapy; or the client has ongoing needs related to the occupational therapy services provided.
- a client's parent, a colleague's client or a client receiving care in the same service or area of practice.

- c) understand the power imbalance that exists in favour of the OT in all client-therapist relationships;
- d) identify the potential risks within their practice in relation to professional relationships and implement strategies for the management of professional boundaries;
- e) recognize their own personal beliefs, values, biases and their position of influence with clients;
- f) recognize any personal or professional risk factors that may make the OT vulnerable to boundary crossings or violations (e.g. his or her own physical and mental health, personal stressors, social or professional isolation, loneliness, or lack of knowledge about professional boundaries)
- g) identify the scope of relationships with clients and avoid exploiting these relationships for personal gain or advantage.
- h) seek proper advice when uncertain whether there is a professional boundary issue of a sexual nature.

2. Consent for touching:

An occupational therapist will obtain informed consent prior to initiating assessment or treatment with the client that involves touching, behaviour or remarks of a clinical nature that may be misinterpreted to be of a sexual nature.

Performance indicators:

An OT will:

- a) obtain informed consent including an explanation of the clinical nature and purpose of touching the client prior to proceeding;
- b) document the discussion of obtaining informed consent;
- c) never rely on a client's consent or willingness to participate in sexual relations as a defence for inappropriate behavior or sexual abuse.

3. Respecting privacy and dignity:

An occupational therapist will respect the privacy and dignity of the client at all times.

Performance indicators:

An OT will:

- a) ensure assessment and treatment spaces offer appropriate privacy which may include the use of curtains or dividers;
- b) ensure appropriate use of draping and garments to minimize unnecessary exposure;
- c) provide options or alternatives for potentially sensitive situations, for example, a third person observer;
- d) use an appreciation and understanding of cultural diversity to address the potential impact of factors such as culture, religion, race, ethnicity, gender,

or language on maintaining professional boundaries and preventing sexual abuse.

4. No treatment of immediate family member:

An occupational therapist will not treat an immediate family member except in the case of an emergency.

5. Mandatory reporting:

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

Performance indicator:

An OT will submit a written report (as described above according to the Act) to the regulatory organization of the regulated health professional believed to have sexually abused a client.

Consequences Related to Sexual Abuse of a Client

A disciplinary hearing is the most serious proceeding that an OT can face under the Act and carried with it the risk of loss of registration. If the Discipline Committee finds an OT has committed an act of professional misconduct by sexually abusing a client, the committee may do the following as per the Act:

19(7) The Discipline Committee may impose any one of the following penalties, or any combination of them, on a member whose conduct or actions have been found to constitute professional misconduct or incompetence:

(a) revocation of the registration of the member or withdrawal of the recognition of specialist status or both;

(a.1) if the registration of the member is revoked, specify a period of time before which the member may not apply for reinstatement;

(b) suspension of the registration of the member for a stated period or withdraw the recognition of specialist status;

(c) impose such restrictions on the registration of the member for such a period and subject to such conditions as the Discipline Committee designates, including conditions of engaging in professional activities or practising only under supervision, not engaging in sole practice, requiring periodic inspections by the Discipline Committee or its delegate or reporting to the Discipline Committee about specified matters;

(d) admonish or reprimand the member, and if deemed warranted, direct that the fact of such reprimand or admonishment be recorded on the register;

(e) impose a fine to a maximum of five thousand dollars to be paid by the member for payment into the funds of the Association;

(f) require the member to undertake to limit professional activities in lieu of suspension;

(g) order the member to undergo counselling;

(h) direct the member to satisfy the Committee that physical handicaps, mental handicaps, or problems caused by drug or alcohol have been overcome;

(i) order publication of the member's name incidental to any of the foregoing orders where the Registrar is not otherwise required to do so;

(i.1) direct that the result of the proceeding be entered into the records of the Association and be made available to the public incidental to any other penalty imposed under this subsection;

(j) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates;

(k) make such other or ancillary orders as the Committee considers appropriate or requisite.

REFERENCES

An Act Respecting the New Brunswick Association of Occupational Therapists, 1988

NBAOT Code of Ethics

Adapted with permission and thanks from: Standards for the Prevention of Sexual Abuse, College of Occupational Therapists of Ontario, 2018.

COTBC Practice Standards for Preventing Sexual Misconduct, 2017