

Alberta College of Occupational Therapists

Standard 10-Maintaining Appropriate Boundaries

Definitions

“Adult interdependent partner” means a person as defined in section 3(1) of the Adult Interdependent Relationships Act SA 2002, c A-4.5:

3(1) Subject to subsection (2) a person is the adult interdependent partner of another person if

(a) the person has lived with the other person in a relationship of interdependence

(i) for a continuous period of not less than 3 years, or

(ii) of some permanence, if there is a child of the relationship by birth or adoption,

Or

(b) the person has entered into an adult interdependent partner agreement with the other person under section 7.

(2) Persons who are related to each other by blood or adoption may only become adult interdependent

partners of each other by entering into an adult interdependent partner agreement under section 3.

“Sexual Abuse” is defined in section 1(1)(nn.1) of the Health Professions Act :

- “sexual abuse” means the threatened, attempted or actual conduct of a regulated member towards a patient that is of a sexual nature and includes any of the following conduct:
 - (i) sexual intercourse between a regulated member and a patient of that regulated member;
 - (ii) genital to genital, genital to anal, oral to genital, or oral to anal contact between a regulated member and a patient of that regulated member;
 - (iii) masturbation of a regulated member by, or in the presence of, a patient of that regulated member;
 - (iv) masturbation of a regulated member’s patient by that regulated member;
 - (v) encouraged a regulated member’s patient to masturbate in the presence of that regulated member;
 - (vi) touching of a sexual nature of a patient’s genitals, anus, breasts, or buttocks by a regulated member;

“Sexual Misconduct” is defined in section 1(1)(nn.2) of the Health Professions Act as;

- “sexual misconduct” means any incident or repeated incidents of objectionable or unwelcome conduct, behaviour or remarks of a sexual nature by a regulated member towards a patient that the regulated member knows or ought reasonably to know will or would cause offence or humiliation to the patient or adversely affect the patient’s health and well-being but does not include sexual abuse

“Sexual nature” is defined in section 1(1)(nn.3) of the Health Profession Act as not including “any conduct, behaviour or remarks that are appropriate to the service provided.”

“Spouse” is a person who is legally married to an occupational therapist.

New ACOT Standard 10-Maintaining Appropriate Boundaries

Introduction

The purpose of this standard is to define who is considered to be a “patient” for the purposes of the sexual abuse and sexual misconduct provisions in the Health Professions Act.

Definitions

The terms that are of importance to Standard 10 in the Definitions section are: adult interdependent partner, client, sexual abuse, sexual misconduct, sexual nature, and spouse. In Standard 10, the term “client” is used to mean “patient” under the sexual abuse and sexual misconduct provisions in the Health Professions Act.

The Occupational Therapist-Client Relationship

The occupational therapist-client relationship is formed when an occupational therapist provides to an individual professional services as described in section 3 of Schedule 15, Profession of Occupational Therapists, under the Health Professions Act.

Responsibilities and Prohibitions

The occupational therapist shall be responsible to establish and maintain appropriate professional boundaries with clients at all times and understand the power imbalance that exists in favour of the occupational therapist in client-therapist relationships.

An occupational therapist shall never engage in sexual abuse of a client or engage in sexual misconduct towards a client.

The consequences of engaging in sexual abuse or sexual misconduct are:

1. If an occupational therapist is found by a Hearing Tribunal to have committed unprofessional conduct based in whole or in part on "sexual abuse" of a patient, then the Hearing Tribunal must cancel the occupational therapist's registration and practice permit. The occupational therapist is never permitted to apply for reinstatement.
2. If an occupational therapist is found by a Hearing Tribunal to have committed unprofessional conduct based in whole or in part on "sexual misconduct" towards a patient, then the Hearing Tribunal must at least suspend their practice permit for a period of time determined by the Hearing Tribunal to be appropriate. The Hearing Tribunal can impose more severe sanctions than a suspension. If an occupational therapist's registration and practice permit are cancelled because of "sexual misconduct" then they cannot apply for reinstatement for at least 5 years.

Former Clients

During the 10-year period following the end of the occupational therapist-client relationship, a former client is considered to be a "patient" for the purposes of the sexual abuse and sexual misconduct provisions in the Health Professions Act. An occupational therapist who engages in the type of conduct described in the definition of "sexual abuse" or "sexual misconduct" toward a former client during the 10-year period commits "sexual abuse" or "sexual misconduct" under the Health Professions Act. In the former case, if a Hearing Tribunal makes a finding of "sexual abuse", then the occupational therapist's registration and practice permit must be cancelled.

Providing Occupational Therapy Services to Spouses and Others

For the purposes of the sexual abuse provisions in the Health Professions Act, a person receiving professional services from an occupational therapist is not considered to be a patient if the occupational therapist is their spouse or adult interdependent partner or if they are in a pre-existing sexual relationship with the occupational therapist.

However, it is considered to be unprofessional conduct for an occupational therapist to provide treatment to a spouse, adult interdependent partner or person with whom they are in a pre-existing sexual relationship except in the case of a medical emergency.

After making a finding of unprofessional conduct, a Hearing Tribunal can impose a range of sanctions including suspensions and cancellation of registration and practice permit.

Duty to Report

Regulated members have an obligation to self-report to their Registrar if found guilty of unprofessional conduct by other regulatory bodies.

Regulated members must also report the following to their Registrar:

- a. Any finding of professional negligence;
- b. If the regulated member has been charged with or convicted of an offence under the *Criminal Code*.

If, in the course of a regulated member acting in the regulated member's professional capacity, the regulated member has reasonable grounds to believe that the conduct of another member of a regulated college constitutes sexual abuse or sexual misconduct, the regulated member having reasonable grounds must report that conduct to the Complaints Director of the other regulated member's college.