



**Increasing Regulated Occupational Therapists'  
Psychological Health and Safety-Related  
Knowledge Base**

**Legislative Background Informing  
Psychological Health and Safety in the  
Workplace**  
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# Legislative Resources Informing Psychological Health and Safety in the Workplace

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## Introduction

This report summarizes legislation and regulations relevant to psychological health and safety (PHS) in occupational therapists' work settings. It is part of the larger Society of Alberta Occupational Therapists (SAOT) project *Increasing Regulated Occupational Therapists' Psychological Health and Safety-Related Knowledge Base*. The project has compiled an extensive collection of educational materials, resources, tools and specific guidelines addressing occupational therapists' psychological health and safety (PHS) in their workplace. The project website **Wellbeing in the Workplace: Reducing Occupational Therapists' Psychological Health and Safety Risks** can be accessed at <http://cbotlabs.wix.com/psychhealthotwork>.

## Background to the issue of PHS

Psychological **health** comprises our ability to think, feel, and behave in a manner that enables us to perform effectively in our work environments, our personal lives, and in society at large.

Psychological **safety** is different - it deals with the **risk of injury to psychological well being** that an employee might experience. Improving the psychological safety of a work setting involves taking precautions to avert injury or danger to employee psychological health.

The psychological hazards most frequently reported in the literature by occupational therapists include:

- work overload which in addition to being inherently stressful, can result in working at a superficial level due to lack of time [1],
- work content - too challenging or not challenging enough [2],
- work process - ambiguity of roles and/or lack of control over one's work (particularly in times of change), and lack of supervisory support and training [3-5], and
- lack of autonomy and respect [6].

**The following information will assist all Alberta occupational therapists in their discussions and collaborations with their employers and employees in the identification, assessment, and mitigation/removal of psychological hazards.**

In Canada, administration of occupational health and safety is a provincial/territorial prerogative, save for the public service and federally regulated agencies and workplaces. As such, occupational therapists and stakeholders from other provinces will find examples below of the types of regulation that they should seek out within their own jurisdiction.

## Legislation

Legislation, both provincial and federal, and well-documented workplace standards recognize that responsibility for workplace health and safety rests with both **employees** and **employers**. (7) What is less well understood currently is that workplace health and safety involves **psychological** conditions and factors that contribute to hazard and risk, including but not limited to those identified above (1-6), as well as the more commonly understood physical elements (such as lifting and handling, infection control, and needle stick injuries).

Policy makers, administrators, and individual occupational therapists, whether they are employees (e.g. hospital or community-based clinician) or employers (e.g. private practice office or clinic), must thus understand and carry out their occupational health and safety responsibilities, as they relate to both physical **and psychological** domains.

For **employees** the Occupational Health and Safety (OHS) legislation (7) extends beyond individually focused strategies in dealing with psychological hazard such as improving one's time management or learning mindfulness practices. The legislation stipulates that occupational therapists must also

- take responsible care to protect the health and safety of themselves and other workers, and
- cooperate with their employer to protect the health and safety of themselves and other workers”

This requires that occupational therapists educate themselves and be aware of their employer's legislated responsibilities in order to collaborate with them by, among other things, raising awareness of potential psychological hazards and assisting with their removal or mitigation. As employees, occupational therapists must also understand the avenues available to them for advocating in this regard, e.g. occupational health and safety legislation, collective agreements, and/or contract stipulations that are applicable.

Legislation and other resources (8-10) have been developed to guide both occupational therapy employees and employers in doing this.

**Note: Employer** is defined as a person who: is self-employed in an occupation, employs one or more workers, is designated by an employer as the employer's representative (e.g. a manager or supervisor), or is a director or officer of a corporation that oversees the occupational health and safety of workers employed by the corporation (e.g. volunteer council or board member).

## Legislation and Resources

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### 1. **Alberta Health Professions Act (11)**

Whether they are employees or employers, occupational therapists are regulated health professionals, and as such are bound by the Alberta College of Occupational Therapists (ACOT) Standards of Practice (regulatory requirements defining minimal practice standards) and Code of Ethics (values and principles guiding conduct).

As relates directly to occupational health and safety, Standard 9 of the College's **Standards of Practice** stipulates that the occupational therapist shall:

9.1 Maintain appropriate management structures and organizational structures and processes for his/ her practice.

9.2 Demonstrate safe work practices by identifying potential risks and minimizing those risks in the practice setting.

The competence section of the ACOT **Code of Ethics** also relates directly to occupational health and safety in the workplace. It specifies that: Occupational therapists shall strive to achieve high standards of competence.

This commitment to competence is indicated by:

- 3.1 reviewing practice and engaging in professional development
- 3.2 providing services only in areas of competence
- 3.3 not providing services when impaired by substances/illness
- 3.5 assisting colleagues/students to achieve and maintain competence

Reminding employers of the requirements of this act may be useful to occupational therapists in collaborating with them to mitigate psychological hazards.

## 2. **Essential Competencies of Practice for Occupational Therapists in Canada** (12)

Though these essential competencies are not legislated 'per se' they are among the documents created by the Association of Canadian Occupational Therapy Regulatory Organizations specifically to inform the development of standards of practice, guidelines for registration, and continuing competence programs (mandated by legislation) in all Canadian provinces.

An a priori requirement for competent practice is “capability” – “the physical, mental, and emotional potential and facility of an individual required to fulfill her professional role” (p. 17).

Though the Essential Competencies relate primarily to one’s “practice” per se, many of them address the potential workplace hazards that pose risks to one’s psychological well being (e.g. work overload, role ambiguity, lack of autonomy, work overload) and as such are helpful in guiding day-to-day practice and in providing support for discussions with employers.

Following are **select performance indicators** from the Essential Competencies document that relate to psychological health and safety in the workplace. In brackets are examples of factors that define the level of expected performance. Please note that they are applicable in both clinical and non-clinical work as well as to the role of both employee and employer.

The occupational therapist:

- 1.2.iii. Takes action to ensure that practice and setting support professional responsibilities (monitors consistency with policies and regulations, checks that terms of agreement in a contract with payer are not in contravention of professional obligations to client)
- 1.2.iv. Supports others to practice professional responsibility
- 1.2.v. Takes necessary actions to ensure client safety (safe working conditions)
- 1.2.i. Demonstrates an understanding of the scope of practice as defined by relevant provincial jurisdiction or regulatory organization
- 1.2.iii. Takes action to ensure that personal and professional limitations do not cause competence to fall below a level considered acceptable in the jurisdiction
- 1.4.ii. Responds appropriately to observed unprofessional behaviors in practice.
- 1.4.iii. Complies with the obligation to report, and processes for reporting, unsafe, unethical, or incompetent practice by an occupational therapist (understands mandatory reporting requirements and processes)
- 2.2.i. Demonstrates insight into personal expertise and limitations.
- 3.4.i. Understands the impact of legislative and regulatory requirements relevant to the province and area of practice. (OHS requirements)
- 5.5.iii. Demonstrates willingness to set team goals and priorities, measures progress, and learns from experience together as a team.
- 5.5.v. Manages differences, misunderstandings, and limitations that may contribute to interprofessional tensions in an effective and diplomatic manner.
- 6.1.i. Conducts a regular assessment of personal learning needs required to ensure ongoing competence (ID changes in responsibility areas, ID risks and supports to personal competence, ID personal and professional abilities and limitations that may impact on

- practice).
- 7.1.iv. Manages professional responsibilities by recognizing personal and professional limits of functioning (limits or stops work if physically or mentally unable to practice safely or effectively, monitors impact of work-life balance on professional responsibilities).
  - 7.2.iii. Supports effectiveness and safety through monitoring, preceptorship, supervision, mentoring, teaching, and coaching.
  - 7.3.ii. Manages risk in practice to prevent and mitigate safety issues.
  - 7.4.i. Demonstrates knowledge of policies and procedures as they relate to client and provider safety.
  - 7.4.ii. Integrates safety practices into daily activities (taking breaks, seeks assistance when needed)
  - 7.4.iv. Recognizes safety problems in real time and responds to correct them where possible.
  - 7.5.iv. Takes action on identified risks to self, client or practice setting.
  - B.2.ii. Demonstrates effective, appropriate, and timely consultation with others as needed to optimize outcomes.
  - B.2.iii. Investigates alternative explanations for problems, issues and challenges.
  - B.2.iv. Recognizes situations where goals and/or work plans should be adjusted, limited, modified, or discontinued.
  - E.1.iii. Demonstrates situational awareness by continually observing the environment, thinking ahead, and reviewing potential options and consequences (work or work settings that might lead to high risk situations).
  - E.2.ii. Shows awareness of health systems, error, and safety concepts (systems design, risk management, context-specific safety solutions).

Of course the practice of occupational therapists is also governed by other provincial laws, which are intricately related to and congruent with our profession-based regulations.

### 3. **Occupational Health and Safety Act (7)**

With respect to workplace psychological health and safety in Alberta, the Occupational Health and Safety Act lists the following among employer responsibilities:

- identifying hazards, conducting a written hazard assessment and implementing controls (an example of a hazard would be a workload that requires excessive overtime e.g. a hand clinic that routinely extends hours past its scheduled closure)
- informing workers of any hazards on the job site (for example working with highly traumatized clients on an ongoing basis)
- ensuring that workers are aware of their responsibilities and duties under the OHS Act
- ensuring that workers completing work are either competent to do so, or under the direct supervision of a worker who is competent

Please note that a **hazard** is defined as “any situation, condition or thing that may be dangerous to the safety and health of employees” (7), whereas **risk** refers to “the combination of the likelihood of the occurrence of harm and the severity of that harm”. (8)

A psychological hazard is any condition or situation that may affect the mental well being or mental health of the worker and may also have physical effects by overwhelming individual coping mechanisms and impacting the worker’s ability to work in a healthy and safe manner. (9) Psychological hazards and risks must be reported and investigated. Due to the personal nature of these incidents, reporting processes should respect the individual’s right to privacy and not put the person reporting the incident in jeopardy. Occupational therapists benefit from collaborating with employers to ensure such processes are in place.

The document Best Practices Guidelines for Occupational Health and Safety in the Healthcare Industry (9) developed by the Government of Alberta is an excellent source of information for

the use and application of the OHS Act and will assist in doing so.

#### 4. **Alberta Human Rights Act (13)**

This Act prohibits discrimination based on mental disability – which it defines as any mental disorder or learning disorder, regardless of its cause or duration. The Act also requires that employers and service providers make reasonable efforts to accommodate individuals with disabilities to the extent that undue hardship is not caused. Specifically, section 7 stipulates that no employer shall:

- (a) refuse to employ or refuse to continue to employ any person, or
- (b) discriminate against any person with regard to employment or any term or condition of employment, because of the race, religious beliefs, color, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person or of any other person.

#### 5. **Workers Compensation (14)**

The Workers Compensation Act of Alberta does not offer detailed and specific reference to illness or disability that directly results from psychological hazards.

Although the Act does state that “invalid means a person who is incapable of becoming gainfully employed due to physical or mental capacity”, it clearly indicates that compensation is only payable “to a worker who suffers personal injury by an accident, unless the injury is attributable primarily to the serious and willful misconduct of the worker” (Part 4, 24 -1).

#### 6. **Health Sciences Association Collective Agreement 2013-2016 (15)**

Though this is not legislation per se it is a legally binding document. [Section 42](#) includes the following stipulations with regard to occupational health and safety considerations:

- The Parties to this Collective Agreement will cooperate to the fullest extent in the matter of occupational health, safety and accident prevention.
- The Employer and employees will take reasonable steps to eliminate, reduce, or minimize all workplace safety hazards.
- If an issue arises regarding occupational health or safety, the employee or Union shall first seek to resolve the issue through discussion with the applicable immediate supervisor in an excluded management position. If the issue is not resolved satisfactorily, it may then be forwarded, in writing, to the committee.

In addition, Letter of Understanding #12 states that:

WHEREAS the Parties agree that for employees in some disciplines, day-to-day flexibility around their start and end time provides the employee with more control of the way their work is done and also increases their ability to provide responsive services to clients. (p. 107)

This is not an exhaustive representation of the provisions of the agreement. Rather the latter are examples of potential avenues of advocacy for occupational therapists who may wish more autonomy in their work as a protective factor to reduce risk to psychological wellbeing. The agreement provides a process for seeking this out with one’s employer.

## Summary

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Psychological health and safety in the workplace is a responsibility shared across all stakeholders. Occupational therapists’ are well served by educating themselves about relevant legislation, regulatory guidelines and contractual agreements. In this manner they can best work with other stakeholders to raise awareness and develop effective strategies to prevent, reduce and remediate psychological risk and hazards in their work environment.

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