



Billing Practices: how to protect yourself and your clients

For occupational therapists working independently or in private practice, the manner in which you charge clients for your services is important. Inaccurate, false, or misleading billing can lead to investigations by insurers or your regulator, disciplinary sanctions, civil liability, and even criminal liability for fraud.

Concerns regarding billing generally don't occur in a vacuum. These concerns often intersect with other aspects of an occupational therapist's practice such as assigning certain services to assistants, proper record keeping, and working within a larger clinic. It's important to have a comprehensive understanding of the guidelines, regulations, standards and legislation applicable in your relevant jurisdiction to ensure that the potential for errors in billing is minimized. Read on to gain a better understanding of what is required, what is prohibited, and general best practice tips to protect yourself and your clients when it comes to billing.

Guiding rules and legislation

Across Canada, each regulator regulates occupational therapists and sets guidelines and standards of practice. These guidelines are drafted to reflect all applicable legislation. While every jurisdiction is different and you should consult with the specific rules and regulations in your jurisdiction, the same underlying principles and rules apply.

i. Accountability, accuracy and honesty

Ultimately, as a regulated professional you are accountable for any fee, billing or account that references

your name and registration number. At all times, you must be cognizant of how this information is being used, as it often can form the basis for complaints/claims.

Issues surrounding accountability may arise when occupational therapists are working with occupational therapist assistants (OTAs) or other support personnel. Relying on assistants can be invaluable for an occupational therapist's practice and for a client's health. However, it should always be clear in what capacity an assistant is acting. Confusion in this regard can lead to occupational therapists invoicing incorrectly and being exposed to liability. You must ensure that proper billing practices are observed, and never charge fees or create billings or accounts that are inaccurate, false or misleading.

Under the Standards of Practice for Record Keeping in Ontario, occupational therapists are required to identify the person(s) who provided the product or service being charged to the client. The Standards for Supervision of Support Personnel also require occupational therapists to document the assignment of any service component to support personnel, including, but not limited to, their full name and title, specific goals and service components carried out. Although it is not explicitly a regulatory requirement to include the assistant's name and job title on an occupational therapist's invoice, you may want to consider adopting this practice as a risk management strategy for transparent billing. However, this will require diligence to ensure that invoices accurately reflect the services provided. If you are the treating/supervising occupational therapist, you will want to review all invoices to ensure their accuracy and transparency.

This is particularly important in a clinic setting where administrative personnel may be charged with completing the invoices.

In addition to being accountable for billing associated with the use of assistants or support personnel, you are also responsible for the accuracy of invoices generated by the software systems that you, or your staff, rely upon. In some cases, billing software will automatically generate invoices for scheduled appointments, and they may not accurately reflect who provided the services, the actual services provided, or in other cases, whether the client even attended for the appointment.

This is of particular significance for occupational therapists who bill directly to third party insurers. Insurers conduct regular audits of providers and the insurer can take direct action by making a complaint to your regulator, or even to the police if serious irregularities are found.

Even if you are not responsible for sending out invoices, as an occupational therapist, you are ultimately accountable for any billing that references your name. On that basis, you should ensure the accuracy of the billing software and systems being used through regular internal audits.

ii. Communicating with the client

In line with the principles and rules addressed above, transparency is paramount when it comes to billing for services. This transparency is crucial not only for the client's benefit, but also for your own practice and record keeping. If a complaint is ever made against you, the more transparent you have been, both in your communications to clients, and in your records, the better it is for defending the actions/decisions taken and invoices generated.

Before providing services, you must effectively communicate with your client about your fees, ensuring that they understand all the information you have provided. Such information can include: all fees that could apply to the specific client (including assessment, reassessment, and treatment); how bills are calculated; if there are cancellation charges, late payment penalties, or interest charges; methods of payments, etc. You must also strive to communicate effectively regarding the use of assistants or support personnel in providing services. Clients need to be aware of what role each service provider is playing in their treatment, and what services they are providing. Such clarity is required to secure the client's informed consent, and to avoid any questions or concerns when the client or third party insurer is billed. To ensure that you are protecting yourself and your practice, occupational therapists should err on the side of more fulsome communication with your clients. Moreover, your clinical notes and records should also clearly reflect the conversations you have had regarding the use of assistants or support personnel, informed consent with respect to the specific treatment and individuals providing the treatment, and the way that this treatment will be reflected on the clients' invoices.

Professional misconduct

Legislation and College guidelines concerning professional misconduct can include a range of acts which qualify as misconduct. In British Columbia, for example, the College of Occupational Therapy's College By-laws outline what qualifies as professional misconduct pursuant to the Health Professions Act. As noted earlier, issues of improper billing often impact on other areas of practice. Inaccurate or false billing creates a negative perception of the profession and as a result, regardless of whether the acts are intentional or not, ethical concerns abound, and the regulatory penalties can be severe.

Shala is a certified hand therapist and works in an inter-professional hand therapy clinic. The key service provided to clients of the clinic is hand therapy, however due to the reimbursement policy of many clients' extended health benefits plans, occupational therapy cannot be billed while orthotics, splints, and physiotherapy can.

In order to cover her occupational therapy services, Shala commonly bills out her hand therapy treatments as physiotherapy. While Shala's goal is to help her clients get the hand therapy paid through their extended health benefits plans, the activity is not transparent and is fraudulent.

The following are common examples of professional misconduct related to billing:

1. submitting invoices for assessments or treatments under an occupational therapist's name and registration number when the assessments or treatments were completed by non-occupational therapists;
2. assigning assessments, reassessments and the development of treatment plans to non-occupational therapists;
3. failing to receive client consent to use assistants or support personnel in the provision of care;
4. submitting invoices to clients that are false, misleading, and inaccurate; and
5. falsifying records.

Penalties can be severe if a disciplinary committee does find that a registrant has committed professional misconduct as it relates to inaccurate or misleading invoices. In addition to severe penalties, billing issues can lead to inquiries into a members practice as a whole.

Conclusion

As provincial regulators continue to focus on this issue, we believe penalties imposed by discipline panels will continue to be significant. Generally, the conduct that can give rise to these disciplinary measures is the result of a misapprehension or limited consideration of the relevant and applicable standards as opposed to intentional fraud. Accordingly, the simplest way to avoid billing related claims is to: