



Occupational Therapy Board of New Zealand

Kaihaumanu Tūroro o Aotearoa

*Fostering faith and confidence
in the profession*

POLICY ON WHEN REGISTRATION AND A PRACTISING CERTIFICATE ARE REQUIRED

Refer Part 2 of the Health Practitioners Competence Assurance Act 2003

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1. Purpose

The purpose of this policy is to provide guidance for unregistered persons, and registered occupational therapists in relation to:

- when an individual needs to be registered with the Occupational Therapy Board of New Zealand (OTBNZ) and hold a current practising certificate;
- defining the practice of occupational therapy;
- determining whether an individual is practising as an occupational therapist (regardless of their employment title).

2. Background

Occupational therapists in New Zealand have been registered since 1949, initially under the Occupational Therapy Act 1949. Currently the legislation governing the practice of occupational therapy in New Zealand is the Health Practitioners Competence Assurance Act 2003 (HPCA Act). The principal purpose of the HPCA Act is *to protect the health and safety of members of the public by providing for mechanisms to ensure that health practitioners are competent and fit to practise their professions.*

Registration concerns the approval of an application to register as a health practitioner in the profession, having the appropriate qualification, and being considered fit for registration and competent to practise (as required under section 15 of the HPCA Act). *Registration alone does not entitle a practitioner to legally practise occupational therapy.*

A practising certificate is about *current* entitlement to practise occupational therapy. The Scope and practice of occupational therapy is described in sections 5 and 6 below.

3. Legal requirements under the Health Practitioners Competence Assurance Act 2003 (HPCA Act)

The OTBNZ is responsible for the regulation of occupational therapists in New Zealand. In order to practise as an occupational therapist in New Zealand it is necessary to:

- be registered by the OTBNZ; *and*
- hold a current practising certificate.

It is important to note that the HPCA Act applies to both unregistered persons, and registered occupational therapists.

A. Unregistered persons (section 7)

Section 7 of the HPCA Act prohibits an unregistered person from claiming to be a health practitioner, and any person who does not hold a current practising certificate cannot claim to be practising a profession as a health practitioner of a particular kind.

A relevant excerpt of the HPCA Act is shown below:

Section 7

Unqualified person must not claim to be health practitioner

- (1) A person may only use names, words, titles, initials, abbreviations, or descriptions stating or implying that the person is a health practitioner of a particular kind if the person is registered, and is qualified to be registered, as a health practitioner of that kind.
- (2) No person may claim to be practising a profession as a health practitioner of a particular kind or state or do anything that is calculated to suggest that the person practises or is willing to practise a profession as a health practitioner of that kind unless the person -
 - (a) is a health practitioner of that kind; and
 - (b) holds a current practising certificate as a health practitioner of that kind

It is a statutory offence to practise without registration and a current practising certificate, punishable on summary conviction by a fine not exceeding \$10,000.

The OTBNZ will investigate any reports of unregistered individuals using any names, words, titles, initials, abbreviations, or descriptions that state or imply that the individual is an occupational therapist or is practising or willing to practise as an occupational therapist. Subject to the particular facts of the case, any potential breaches of section 7 will be referred to the Ministry of Health who is responsible for the investigation and prosecution of statutory offences against the HPCAA.

B. Registered occupational therapists (section 8)

A registered occupational therapist practising the profession of occupational therapy without a current practising certificate is grounds for disciplinary action.

Specifically, section 8 prohibits a registered occupational therapist from performing services which fall within the description of occupational therapy and requires that practise must be in accordance with the conditions on the practitioner's scope of practise.

The OTBNZ's gazetted *General Scope of Practice: Occupational Therapist*, and its *Definition of the Practice of Occupational Therapy*, are discussed in sections 5 and 6 below and is supported by a decision tree at section 7. They are key documents in determining whether a particular activity/role constitutes 'practising' occupational therapy.

A relevant excerpt of the HPCA Act is shown below:

Section 8

Health practitioners must not practise outside scope of practice

- (1) Every health practitioner who practises the profession in respect of which he or she is registered must have a current practising certificate issued by the responsible authority.
- (2) No health practitioner may perform a health service that forms part of a scope of practice of the profession in respect of which he or she is registered unless he or she-
 - (a) is permitted to perform that service by his or her scope of practice; and
 - (b) performs that service in accordance with any conditions stated in his or her scope of practice.

It is a disciplinary offence under section 100 (1) (d) of the HPCA Act to practise without a current practising certificate.

The OTBNZ will take very seriously any registered occupational therapist suspected of practising occupational therapy without a current practising certificate, and/or practising outside of their scope of practice (beyond the limitations of any conditions on their practising certificate). Subject to the particular facts of the case, it is likely that the OTBNZ will refer such practitioners to a Professional Conduct Committee for investigation.

Holding a practising certificate provides the public with assurance that the occupational therapist is fit and competent to practice.

4. Determining if registration and a practising certificate are required

Unregistered persons:

In accordance with section 7 of the HPCA Act, the OTBNZ's policy is that a person must be registered and hold a current practising certificate if any of the following criteria apply:

1. if the person's position title is 'occupational therapist';
2. if the person uses (or intends to use) names, words, titles, initials, abbreviations, or descriptions that state or imply that he or she is an occupational therapist;
3. if the person is otherwise perceived by others to be an occupational therapist, even if the position title is not 'occupational therapist';
4. if the person does anything calculated to suggest that they practise or are willing to practise occupational therapy; such as advertising, holding out to the public, or representing in any manner that he or she is authorised to practise as an occupational therapist in New Zealand.

Registered occupational therapists:

In accordance with section 8 of the HPCA Act, the OTBNZ's policy is that a registered occupational therapist must hold a current practising certificate if any of the following criteria apply:

5. if the provision of services falls within the scope of practice: *Occupational Therapy (if the services fall within the scope of practice, this constitutes practising occupational therapy);*
6. if the provision of any services are using processes of enabling occupation intended to shape, promote, or modify a person or a group of people's capacity to engage in occupations/s (and) whose role could impact on public safety; OR if the provision of any services falls within the scope of practice for occupational therapy;
7. if the individual is using the knowledge, skills and competence initially attained for the occupational therapy qualification (or equivalent) and built upon in postgraduate and continuing occupational education, wherever there could be an issue of public safety;
8. is not restricted to provision of direct clinical care and applies to any role that impacts on safe, effective delivery of services (that impacts on the public);

For the avoidance of any doubt:

An unregistered person, and a registered or previously registered occupational therapist is required to hold a current practising certificate if:

- a. they are providing supervision and/or oversight to another occupational therapist with a condition on their scope of practice (standard or otherwise);
- b. they are providing education and/or training in occupational therapy,
- c. the employer requires the role to be filled by a registered health professional

Please refer to the decision tree at section 7 below

5. General Scope of Practice: Occupational Therapist

The OTBNZ has gazetted a *General Scope of Practice: Occupational Therapist*. It describes the activities undertaken by occupational therapists in various employment positions, some of which are not titled 'occupational therapist':

General Scope of Practice: Occupational Therapist

Occupational therapists are registered health professionals, who use a process of enabling occupation to optimise human activity and participation in all life domains across the lifespan, and thus promote the health and well-being of individuals, groups, and communities.

These life domains include: learning and applying knowledge; general tasks and demands; communication; mobility; self-care; domestic life; interpersonal interaction and relationships; major life areas; and community, social and civic life. Enabling occupation incorporates the application of knowledge, principles, methods and procedures related to understanding, predicting, and ameliorating or influencing people's participation in occupations within these life domains.

Such practice is evidence-based, undertaken in accordance with the Occupational Therapy Board's prescribed Competencies and Code of Ethics, and within the individual therapist's area and level of expertise.

6. Definition of the Practice of Occupational Therapy

To assist interpretation of the *General Scope of Practice: Occupational Therapist*, especially for persons in non-traditional or role-emergent practice contexts, the OTBNZ developed a definition of the practice of occupational therapy. The *Definition of the Practice of Occupational Therapy* is set out below:

Definition of the Practice of Occupational Therapy

The Occupational Therapy Board of NZ defines the practice of occupational therapy as the following:

1. *Using process/es of enabling occupation to promote health and well-being by working with individuals, whanau, groups, organisations, communities and society to optimise activity and participation across the lifespan and in all life domains.*
2. *Establishing relationships with clients/Tangata Whaiora and people associated with clients, based on an understanding of their occupational history, participation preferences, and the personal, spiritual, family, whanau, social, and cultural meanings of what they do.*
3. *Using interactive, observational and interpretive methods of enquiry to explore and understand the subjective meanings of occupation.*
4. *Assessing aspects of people, occupations and places relevant to the things people want, need and are expected to do, including:*
 - a. *Personal factors, body structures and functions, activity limitations and occupational performance skills relative to the requirements for participation and developmental stage.*
 - b. *Past and present participation in occupation including the effectiveness of and satisfaction with that participation.*
 - c. *Routines and patterns of participation, and their consequences for health and well-being.*
 - d. *The components of occupation, and the capacities, skills and resources required to participate in them.*
 - e. *Contexts of participation, including facilitators and barriers to participation in occupation, and culturally defined roles and meanings.*
5. *Working collaboratively with clients to:*
 - a. *Identify and prioritise activity and participation goals at an occupational performance level, in current and future environments.*
 - b. *Develop, preserve and restore capacity for participation, including body structures and functions, and personal factors as these relate to skilful, effective and satisfying occupational performance.*
 - c. *Prevent or retard predictable deformity of body structures and/or disruption of body functions that might affect participation, through educational approaches and by recommending and educating people in the use and care of assistive devices, garments and technologies.*
 - d. *Review participation choices, in relation to enabling occupational performance.*

- e. *Modify how, when, where and with whom activities and occupations are performed.*
 - f. *Modify physical, social and attitudinal environments to remove barriers to participation in occupation and strengthen facilitators of participation in occupation.*
 - g. *Develop a group, organisation, or community's purpose, resources, structure, functioning and/or skills to enable participation in occupation.*
6. *'Practice' may be paid or voluntary. Practice goes wider than clinical occupational therapy to include teaching/tutoring, professional and/or team leadership or health management and advisory roles where the person influences the practice of occupational therapy, in hospitals, clinics, private practices and community and institutional contexts.*
7. *Engaging in processes to ensure competence in the above*

Section 7

Decision tree & examples

Please note, this Decision Tree is intended as a guide only. If any person is uncertain of their legal obligations they should contact the Registrar immediately.

References

1. Health Practitioners Competence Assurance Act 2003;
2. *Continuing Competence Framework for Recertification Practitioner Handbook* (October 2004);
3. *General Scope of Practice: Occupational Therapist* (September 2004);
4. *Policy for Registration of Occupational Therapists and Legal Entitlement to Practise; Occupational Therapy in NZ* (approved 18 May 2006).

Examples of people who typically need a practising certificate are occupational therapists who are:

- An occupational therapy service manager/advisor or leader
- An occupational therapy educator
- Working on a voluntary basis
- Working part-time
- Working as needs assessor or case managers
- Working as an advisor for ACC

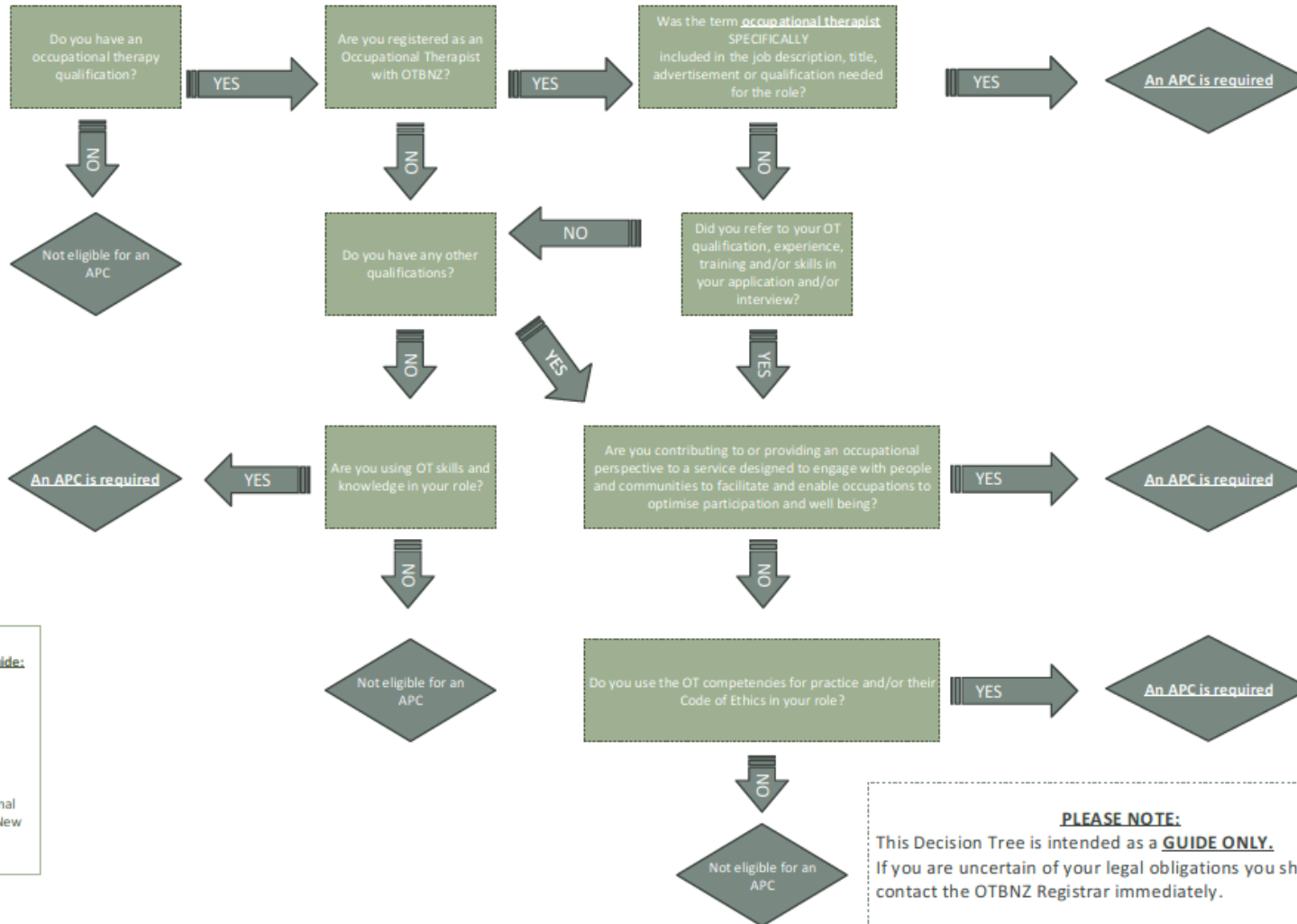
Please contact the Registrar if you are unsure to discuss your situation and whether or not you should hold a practising certificate.

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Policy review due: October 2017

Flowchart

Decision Tree to When An Practising Certificate (APC) is required



Abbreviation Guide:
 APC – a practising certificate
 OT – Occupational Therapist
 OTBNZ -Occupational Therapy Board of New Zealand

PLEASE NOTE:
 This Decision Tree is intended as a **GUIDE ONLY**.
 If you are uncertain of your legal obligations you should contact the OTBNZ Registrar immediately.