



**FACULTY OF OCCUPATIONAL MEDICINE  
OF  
THE ROYAL COLLEGE OF PHYSICIANS OF IRELAND**

**GUIDANCE ON ETHICAL PRACTICE FOR OCCUPATIONAL PHYSICIANS**

**1. Medical Ethics and Occupational Physicians**

The main concern of Occupational Physicians (OP) is the protection and improvement of the health of those at work. Occupational Physicians are also concerned with the health of the population of working age. The main objectives of this discipline are:

- Protecting and promoting the health at work of all people by encouraging the adaptation of work to people and of each person to their work.
- Promoting work systems and environments which minimise risks to the health and safety of the working population.
- Encouraging work cultures which enhance health in the broadest sense both individually and collectively.

In providing advice to employers, occupational physicians act as impartial observers with specific medical expertise and/or research skills monitoring trends in working populations. OPs conduct medical assessments in a range of circumstances including to meet statutory requirements, to determine fitness for work or to advise on workplace adjustments. Examinations may be conducted at the request of the employer or the employee. Consent to the conduct of all assessments other than those initiated by the individual should be sought.

It is recognised that the practice of occupational medicine may at times place doctors in positions in which conflicts of interest or loyalty may arise as a consequence of their dual obligations. In all of their relationships with people, occupational physicians should understand the capacity in which they are acting at that time and ensure that other parties also understand that position. In particular, doctors giving occupational medical advice to companies where employees of the company may also be their patients should ensure that the roles are distinct, separate and that this is understood by all.

**2. Confidentiality and Consent**

When performing assessments doctors should ensure that all employees fully and clearly understand:

- The reason for the examination.
- The form that it will take.
- The nature and scope of advice to be given to the employer.

Individual clinical findings are confidential and information given to the employer should generally be confined to advice on ability and functional limitation. The patient's informed consent should be sought to the disclosure of information where identifiable data is provided for any purpose other than the provision of care or clinical audit, except where disclosure is required by law or the public interest because of risk of death or serious harm. More detailed information should only be disclosed with the consent of the employee. This latter course of action should only be in exceptional circumstances, in individual cases, where more detailed insights on the impact of the condition are necessary and appropriate to enable the employer to come to a decision.

When communicating with other medical advisors, the occupational physician should have obtained the employee's consent, preferably in writing, unless in exceptional circumstances (such as medical emergencies).

Care should also be taken where information provided by a third party contains clinical details about a patient, even if the patient may have been the source of the information e.g. by confiding details of their illness with their manager.

### **3. Personal Medical Records**

Management of personal medical records, and data arising from them, should be in accordance with the current data protection legislation. Personal medical records held by occupational health departments are confidential to the medical and nursing staff. They must be kept in a secure place and neither employers nor their legal advisers have any right of access to confidential clinical information unless they have consent or have obtained legal power through an order of a court of law.

In cases of litigation the occupational physician should not release any medical information or records relating to any employee without the employee's consent in writing, or on foot of a court order. In such cases the information should only be released to the individual authorised by the employee. Companies or their legal advisers or insurers have no automatic right of access to any medical records or reports.

If an occupational health department closes/ceases to exist, or an existing contract is awarded to another occupational health provider, arrangements for the transfer of clinical data either to an employee's general practitioner in regard to the former or to the new occupational health provider in the event of the latter, subject to the employee giving consent, should be made. In specific circumstances, for example if periodic screening has taken place or if an employee has been exposed to a hazard likely to have implications for health in the long term, the records may be passed directly to the employee. The maintenance of health records not containing confidential clinical information is a requirement under certain health and safety regulations. This type of record is not medically confidential.

### **4. Testing for Drugs and Alcohol**

Strict ethical criteria apply in this area and doctors who undertake these duties should seek assurance that the company's policy on drug testing complies with accepted standard practice. OPs do not have management responsibility for alcohol & drug policies but may contribute to policy development in collaboration

with HR and legal advisors and advise on the sensitive issues associated with workplace testing. They have an important health advocacy function in representing the interests of employees and understanding the context in which testing programmes can be carried out. Such programmes should be under the control of a suitably qualified and experienced medical practitioner. The roles of medical and nursing staff should be documented clearly in advance and the employer, employees and health professionals should understand the procedures for handling the results of these tests. It is important that the occupational physician at the time of testing confirms that each employee understands the arrangements. Informed consent should be obtained. A strict protocol for sample handling and transmission to laboratories should be in place.

Consent from the individual is still required even when the testing is required by law such as is detailed in Section 13 of the Safety Health and Welfare at Work Act 2005 or other legislation.

#### **5. Independent Occupational Health Services**

OP's when seeking to provide services should take care not to denigrate or damage the professional reputation of competitors. Where the provider of a contract changes, the outgoing provider should make every reasonable effort to facilitate a changeover.

#### **6. Conflicting Medical Opinions**

When giving an opinion the OP must be independent and impartial. At times OPs may form a different opinion from another doctor on, for example, on individual fitness to work. It is required that any opinion be formed on the basis of knowledge of the capacity of the individuals and of the requirements of the work and not for any other reason. Where a difference of opinion exists, one doctor should not denigrate the other doctor because of that difference. Where practical, and with the individuals consent, it is recommended that the doctors communicate to attempt to understand the others position. It is recognised that doctors will not always agree and each doctor is entitled to hold their own opinion provided it is held for valid and impartial reasons.

#### **7. Obtaining Medical Reports**

OP's may on occasion need to obtain medical reports on an individual from their own medical attendants. In such circumstances the written consent of the individual is required and any report obtained used only for the purpose for which consent has been given. It is to be expected that other doctors providing these reports will do so without undue delay and without the need to request payment (if applicable) in advance.

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