



# Medical Advisory Service

Occupational and Environmental Medicine, Public Health, and Toxicology Consultants

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## The ICOH Code of Ethics for Occupational Health Professionals II. Duties and Obligations

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Part I discussed the introduction and basic principles of the ICOH Code of Ethics for Occupational Health Professionals. This Part discusses duties and obligations of the occupational health professional and the specific articles of the code.

The body of the ICOH Codes commences with a section on the duties and obligations of occupational health professionals.

1. *“The primary aim of occupational health practice is to safeguard and promote the health of workers, to promote a safe and healthy working environment, to protect the working capacity of workers and their access to employment. In pursuing this aim, occupational health professionals, must use validated methods of risk evaluation, propose effective preventive measures and follow up their implementation. The occupational health professionals must provide competent and honest advice to the employers on fulfilling their responsibility in the field of occupational safety and health as well as to the workers on the protection and promotion of their health in relation to work. The occupational health professionals should maintain direct contact with safety and health committees, where they exist.”*

This passage is straightforward. It should be noted that for employers of significant size the ICOH Code expects there to be joint (worker-management) health and safety committees or other mechanisms for the review, evaluation, and correction of workplace hazards and the assessment of safety performance, injuries and incidents.

Such committees are not normally present in many countries, making this article somewhat aspirational. The value of involving workers is indisputable, however, and interventions to reduce injury and enhance workplace safety are likely to founder on the most obvious obstacles and for the silliest reasons if workers are not involved in their formulation. It is also a question of fairness. The lives of workers will be changed, at least within the workplace. It is only fair to involve people in decisions that affect their lives.

2. *“Occupational health professionals must continuously strive to be familiar with the work and working environment as well as to develop their competence and to remain well informed in scientific and technical knowledge, occupational hazards and the most efficient means to eliminate or to minimize the relevant risks. As the emphasis must be on primary prevention defined in terms of policies, design, choice of clean technologies, engineering control measures and adapting work organizations and workplaces to workers, occupational health professionals must regularly and routinely, whenever possible, visit the workplaces and consult the workers and the management on the work that is performed.”*

On one level, this is one of several passages in the ICOH Code admonishing the occupational health professional to take the job seriously and with dedication. However, it is more than that. This provision requires that an effort be made to see the actual workplace and to talk to workers, outside of clinic as well as in, in order to better understand the reality of the workplace, rather than



relying on training and theoretical knowledge. It also explicitly gives priority to primary prevention. This gives protection to the responsible occupational health professional who insists on an engineering solution, such as ventilation, over personal protective equipment or, say, increased frequency of periodic health surveillance.

- 3. “The occupational health professional must advise management and the workers on factors at work which may affect workers’ health. The risk assessment of occupational hazards must lead to the establishment of an occupational safety and health policy and of a programme of prevention adapted to the needs of undertakings [companies or enterprises] and workplaces. The occupational health professionals must propose such a policy and programme on the basis of scientific and technical knowledge currently available as well as of their knowledge of the work organization and environment. Occupational health professionals must ensure that they possess the required skill or secure the necessary expertise in order to provide advice on programmes of prevention which should include, as appropriate, measures for monitoring and management of occupational safety and health hazards and, in case of failure, for minimizing consequences.”*

This article places a duty on the occupational health professional to deal with serious hazards by effective means and to be prepared to handle what might arise. It cuts off the escape route of the occupational health professional claiming that nothing can be done because management was not interested or they did not know what to do. At the same time, this article acknowledges that a safe workplace is management’s responsibility and concedes that the occupational health professional may not succeed: it simply requires that the occupational health professional make the effort.

- 4. “Special consideration should be given to the rapid application of simple preventive measures which are technically sound and easily implemented. Further evaluation must check whether these measures are effective or if a more complete solution must be sought. When doubts exist about the severity of an occupational hazard, prudent precautionary action must be considered immediately and taken as appropriate. When there are uncertainties or differing opinions concerning nature of the hazards or the risks involved, occupational health professionals must be transparent in their assessment with respect to all concerned, avoid ambiguity in communicating their opinion and consult other professionals as necessary.”*

This may seem to be obvious or overly technical but it is there for a reason. It brings to mind the old adage “The perfect is the enemy of the good.” Occupational health professionals sometimes prefer to wait for the perfect solution instead of controlling the hazard by whatever means works. An 80% solution applied immediately is better than a 100% solution delayed and unsustainable. The article also adopts a precautionary approach to uncertain risk and puts a duty on the occupational health professional to document and communicate clearly. Risk communication therefore becomes a core skill of occupational health professionals, although usually not recognized as such.

- 5. “In the case of refusal or of unwillingness to take adequate steps to remove an undue risk or to remedy a situation which presents evidence of danger to health or safety, the occupational health professionals must make, as rapidly as possible, their concern clear, in writing, to the appropriate senior management executive, stressing the need for taking into account*



*scientific knowledge and for applying relevant health protection standards, including exposure limits, and recalling the obligation of the employer to apply laws and regulations and to protect the health of workers in their employment. The workers concerned and their representatives in the enterprise should be informed and the competent authority [government regulatory body] should be contacted, whenever necessary.”*

This is a critical article. It calls on the occupational health professional to report serious risks to management or to competent authority, notwithstanding any a professional risk. At the same time, it sets a threshold for what a serious risk is and when such action is appropriate.

6. *“Occupational health professionals must contribute to the information for workers on occupational hazards to which they may be exposed in an objective and understandable manner which does not conceal any fact and emphasizes the preventive measures. The occupational health professionals must cooperate with the employer, the workers and their representatives to ensure adequate information and training on health and safety to the management personnel and workers. Occupational health professionals must provide appropriate information to the employers, workers and their representatives about the level of scientific certainty or uncertainty of known and suspected occupational hazards at the workplace.”*

This article is primarily concerned with risk notification and transparency to all parties. This provision, like article 4, requires transparency and effectiveness in risk communication on the part of the occupational health professional. It is far-sighted in requiring explicit and clear statements about the level of uncertainty involved.

7. *“Occupational health professionals are obliged not to reveal industrial or commercial secrets of which they may become aware in the exercise of their activities. However, they must not withhold information which is necessary to protect the safety and health of workers or of the community. When needed, the occupational health professionals must consult the competent authority in charge of supervising the implementation of the relevant legislation.”*

This provision acknowledges the legitimacy of trade secrets but holds the occupational health professional to a higher duty to health protection.

8. *“The occupational health objectives, methods and procedures of health surveillance must be clearly defined with priority given to adaptation of workplaces to workers who must receive information in this respect. The relevance and validity of these methods and procedures must be assessed. The surveillance must be carried out with the informed consent of the workers. The potentially positive and negative consequences of participation in screening and health surveillance programmes should be discussed as part of the consent process. The health surveillance must be performed by an occupational health professional approved by the competent authority.”*

This provision is not clearly written and it may be difficult for occupational health professional in North America to relate to it. Periodic health surveillance has been controversial in many countries (including Canada and Germany) and this article is a response to the perceived abuse of “medical monitoring”. It requires that the methods of surveillance be evidence-based because in the past



some tests had little value (there is a long history of this with benzene exposure) or were even medically contraindicated (such as low back x-rays). The provision allowing a worker to opt out would not apply to mandated surveillance, required by law or regulation, or if surveillance is covered in the work contract. In every case, surveillance procedures and the evidence for individual tests should be documented thoroughly and supported by a policy.

9. *“The results of examinations, carried out within the framework of health surveillance must be explained to the worker concerned. The determination of fitness for a given job, when required, must be based on a good knowledge of the job demands and of the work-site and on the assessment of the health of the worker. The workers must be informed of the opportunity to challenge the conclusions concerning their fitness in relation to work that they feel contrary to their interest. An appeals procedure must be established in this respect.”*

In much of the world, fitness-for-duty evaluations are considered part of surveillance, hence the inclusion of both in this provision. (I personally do not agree with this formulation but I agree with the provisions.) This article requires worker notification and risk communication. In many countries, medical determinations on fitness for duty for new hires or return to work are not normally subject to appeal but this article requires it.

10. *“The results of the examinations prescribed by national laws or regulations must only be conveyed to management in terms of fitness for the envisaged work or of limitations necessary from a medical point of view in the assignment of tasks or in the exposure to occupational hazards, with the emphasis put on proposals to adapt the tasks and working conditions to the abilities of the worker. General information on work fitness or in relation to health or the potential of probably health effects of work hazards, may be provided with the informed consent of the worker concerned, in so far as this is necessary to guarantee the protection of the worker’s health.”*

This provision is set in the context of preplacement (job-specific), preemployment (work qualification, not used in US or Canada) and periodic health evaluations required by law or regulation in many countries. The employer is not normally entitled to the diagnosis or any specific information on the medical condition of an employee or even details of the disability, except a conclusion regarding fitness for duty (expressed as “fit”, “unfit”, or “fit with accommodation/modification”) and the accommodations or modifications required in the event of a disability. (This provision also applies to certification of illness as grounds for absence by any physician; the “note from the doctor” should not mention diagnosis.)

Confidential medical information can be disclosed when required by law or regulation (as in workers’ compensation claims), with informed consent, when disclosure would be in the worker’s own interest (for example, if the worker became seriously ill at work), and when disclosure would be necessary for the public interest (for example, if the worker had a highly communicable disease). The latter two place the occupational health professional in a difficult position of balancing interests. The standard for disclosure without the protection of law or consent would be very high: serious injury or risk to life. Legal advice should always be sought in such situations.

11. *“Where the health condition of the worker and the nature of the tasks performed are such as to be likely to endanger the safety of others, the worker must be clearly informed of the*



*situation. In the case of a particularly hazardous situation, the management and, if so required by national regulations, the competent authority must also be informed of the measures necessary to safeguard other persons. In his advice, the occupational health professional must try to reconcile employment of the worker concerned with the safety or health of others that may be endangered.”*

“Safety-sensitive” workers are held to a higher standard of fitness and reliability, for the protection of others. The emphasis in this provision is giving the worker the opportunity to do the right thing and to request a change in duties voluntarily. If this does not happen, the physician may be forced to act by making a judgment of “unfit” for duty or by seeking guidance through regulation, contract language and strong employer policies. The threshold for notifying management and government regulatory agencies is high: the situation must exceed the usual degree of risk in any workplace, which implies risk of serious injury or death. Legal advice should always be sought in such situations.

*12. Biological tests and other investigations must be chosen for their validity and relevance for protection of the health of the worker concerned, with due regard to their sensitivity, their specificity and their predictive value. Occupational health professionals must not use screening tests of investigations which are not reliable or which do not have a sufficient predictive value in relation to the requirements of the work assignment. Where a choice is possible and appropriate, preference must always be given to non-invasive methods and to examinations, which do not involve any danger to the health of the worker concerned. An invasive investigation or an examination which involves a risk to the health of the worker concerned may only be advised after an evaluation of the benefits to the worker and the risks involved. Such an investigation is subject to the worker’s informed consent and must be performed according to the highest professional standards. It cannot be justified for insurance purposes or in relation to insurance claims.*

This article revisits the validity of tests used in periodic health surveillance and medical monitoring, which must conform to the characteristics of a well-performing test particularly with respect to predictive value. Every so often, someone invents a new test and tries to use it for screening workers without waiting for appropriate validation and acceptance by the scientific community. (I once had to deal with a proposal, put forward in all seriousness, to test urine for asbestos fibers.) The article discourages or prohibits tests that have not been scientifically validated (such as visual contrast sensitivity, as a test for toxicity), do not have well-defined outcomes relevant to work capacity (such as neurocognitive testing), are not demonstrably related to work exposures or capacity (such as pelvic examinations for female employees), and that have poor predictive value (such as color vision tests as an initial screen for solvent toxicity). The article also prohibits tests that carry an unacceptable risk (such as low back x-rays) or inconvenience to the worker (such as 24-hour urine collections). As a practical matter, this means that only time-tested, reliable, and well-validated tests should even be considered for screening, periodic health surveillance, and fitness for duty evaluations. Otherwise, the risk of discrimination because of false positives or negatives is too high.

Genetic testing is particularly sensitive. In addition to providing inappropriate information on individual susceptibility and health risk to employers, genetic testing can be used unfairly to exclude workers from a workplace with a hazard rather than what should be done, which is to



control the hazard.

*13. When engaging in health education, health promotion, health screening and public health programmes, occupational health professionals must seek the participation of both employers and workers in their design and in their implementation. They must also protect the confidentiality of personal health data of the workers, and prevent their misuse.*

This short provision may seem innocuous but it is highly significant because it requires involvement of workers in the means for their protection. It treats occupational health and health promotion as a matter of equity. It recognizes a right of workers to have input on how their health will be protected. It assumes a mechanism for involving employees, whether there are unions or not. It also further strengthens protection of confidential health data but the emphasis here is on personal health rather than work-related health disorders or surveillance data.