The Enabling Role of Ethics in OHS in the Quest for Decent Work and Good Service Delivery

Bernardino Ramazzini - De Morbis Artificum Diatriba
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Not only in antiquity but in our own times also laws have been passed...

**to secure good conditions for workers;**
so it is right that the art of medicine should contribute its portion for the benefit and relief of those for whom the law has shown such foresight...

[We] ought to show peculiar zeal...

in taking precautions for their safety.

I for one have done all that lay in my power, and have not thought it beneath me
to step into workshops of the meaner sort now and again and study the obscure operations of mechanical arts.
The Supreme Ethical Rule:
Act so as to elicit the best in others
and thereby in thyself.

- Felix Adler, professor, lecturer, and reformer (1851-1933)
1. INTRODUCTION – constant evolution

1.1 The last update of this document occurred in 2011 and since then there have been several developments that have affected the practice of occupational medicine. Locally, legislation has changed and there have been changes to the approach taken by the Health Professions Council with regard to medical practice. Internationally, ICOH has been through a process of updating its code of ethics and the Faculty of Occupational Medicine in London has recently updated its document. Occupational medicine is now a specialty in South Africa and an increasing number of specialists are now being qualified by the College of Medicine. This necessitates a review of this document.

1.2 Doctors practising in the field of occupational health and medicine are encouraged to update their knowledge through the reading of this document (and other references), to address the changes needed in their contracts or relationships and, where necessary, their practice.

1.3 The South African Society of Occupational Medicine calls on its members to apply the ethical principles detailed below in their everyday practice.
2. LEGAL

2.1 The Law does not provide guidance on ethical behaviour for doctors and occupational health and safety law only talks about the responsibilities of the Employer and Employee (OHP/OMP). However, laws are rules established and enforced by Government and are utilitarian rules intended to minimise conflict in society.

It is the occupational physician’s first responsibility to know and obey applicable laws.

2.2 The body of legislation that affects occupational health practice is considerable and the Occupational Medical Practitioner, as a minimum, must have a good working knowledge of the following Acts and any other legislation relevant to his/ her area of practice:

2.2.1 The National Health Act, (Act 61 of 2003).
2.2.2 Occupational Health and Safety Act (Act 85 of 1993) and its regulations.
2.2.3 Mine Health and Safety Act (Act 29 of 1996) and its regulations.
2.2.4 Occupational Diseases in Mines and Works Act (Act 78 of 1973)
2.2.5 Compensation for Occupational Injuries and Diseases Act (Act 130 of 1993)
2.2.6 Employment Equity Act (Act 55 of 1998).
2.2.7 Basic Conditions of Employment Act (Act 75 of 1997) and codes of good practise.
2.2.9 The Labour Relations Act (Act 28 of 1956) as amended in 1996.
2.2.10 The National Road traffic Act (Act 93 of 1996) and Regulations.
Practical Ethics
Process/GMP/Business ethics

Procedural correctness
Fairness

Contract - ethics
Written Policies
Data/Privacy/Consent
Reporting/Publication

Primum no nocere
Take action
3. STANDARDS

3.1 Health Professions Council of South Africa (HPCSA)

3.1.1 The HPCSA is the primary governing body for the medical profession in South Africa and sets the rules regarding ethical standards for the profession. These are listed in separate guidelines that can be accessed and downloaded from the HPCSA website http://www.hpcsa.co.za/Conduct/Ethics

3.1.2 In addition there are numerous other documents and guidelines regarding clinical practice and research with which the occupational medicine practitioner must be familiar. These can be found on the HPCSA website.

3.2 The College of Public Health Medicine (Division of Occupational Medicine)

3.2.1 The Colleges of Medicine is an independent academic body that is concerned with the qualification of medical specialists in South Africa and sets the standards for the required qualifications to practise as a specialist. The College of Public Health Medicine (Division of Occupational Medicine) is specifically concerned with the curriculum, examinations and qualification for occupational medicine as a specialty. The College does not set standards or produce guidance on ethics or any aspect of practice for any of the 27 specialties that constitute the Colleges of Medicine.

3.3 South African Society of Occupational Medicine (SASOM)

3.3.1 SASOM is a specialist subgroup of the South African Medical Association (SAMA) and, like other specialist societies within SAMA, provides advice and guidance on aspects of medical practice in relation to its specialty. This document is part of that guidance.
4. ETHICAL PRINCIPLES

4.1 The ethical principles in occupational health are the same as those for the rest of medical practice that are set out in the ‘Georgetown Mantra’ and have been adopted all over the world. A detailed discussion of these is beyond the scope of this document but suffice to say they are the basis for all ethical analysis in occupational health practice.

4.2 The four ethical principle are listed below:

4.2.1 Respect for the autonomy of the individual;
4.2.2 Beneficence (doing good);
4.2.3 Non-maleficence (doing no harm);
4.2.4 Distributive justice (all individuals have equal rights and responsibilities).

4.3 These principles are not spelt out in detail here and will emerge in each aspect of occupational medicine practice as it is discussed below.

Discriminate/unfairly discriminate
5. OCCUPATIONAL HEALTH PRACTICE

Interacting with other professionals

The occupational health physician may be working alone or in a multidisciplinary team of health care workers, safety professionals, occupational hygienists and human resources professionals. In addition there may be interactions with family practitioners and other medical specialists who are involved with treating employees that are seen in the occupational health practice.

5.1 Clinical colleagues

5.1.1 Occupational medical professionals will necessarily come into contact with other medical practitioners either on a referral basis or, increasingly outside the realm of occupational health care, with the worker’s primary care provider.

5.1.2 In South Africa the occupational health service or clinic often has an overlapping primary care role. One of the advantages of a factory based occupational health clinic is the easy access to health care for the worker to prevent absenteeism. Workers normally have access to health care outside the factory from a mix of State and private health care providers and the occupational health professional must be careful not to take over treatment (supersession). There is value to be added through cooperation with the worker’s family physician or primary care provider in assisting with follow up of chronic disease and by providing information to them about work-related issues and exposures which may be relevant. This interaction must take place with the informed consent of the individual on each occasion.

5.1.3 In situations, such as remote sites, where primary care or emergency services are provided by the company the line between occupational medicine and clinical care may be very blurred. It is important that continuity of care is maintained when the worker returns home and that occupational medicine practitioners stay within the bounds of their competence. Care should also be taken to ensure that all referrals take place to a competent professional.
5. OCCUPATIONAL HEALTH PRACTICE

5.2 Non-clinical colleagues

5.2.1 The exchange of information with non-clinical colleagues in HR, Safety and Management is sometimes necessary and of benefit to the worker. Care must be taken not to release confidential medical information unless the worker has given informed consent to this.
6. SPECIFIC ISSUES FOR OCCUPATIONAL MEDICINE PRACTICE IN SOUTH AFRICA

6.1 Medical certificates

6.1.1 Occupational health practitioners in South Africa may be either an Occupational Health Nurse or an Occupational Medical Practitioner and due to the shortage of doctors many medical surveillance examinations are carried out by Occupational Health Nurses. On occasion these examinations take a dual purpose and are used for the certification of continued fitness to work. Occupational Medical Practitioners must take care not to sign medical certificates unless they have personally examined the worker. This rule applies equally to sick certificates which should
7. INTERNATIONAL CODE OF ETHICS: ICOH

7.1 SASOM subscribes to the International Code Ethics from the International Commission on Occupational Health (ICOH). The full text is adopted as follows.
BASIC PRINCIPLES - *contracts*

The following three paragraphs summarize the principles of ethics and values on which is based the International Code of Ethics for Occupational Health Professionals.

The purpose of occupational health is to serve the protection and promotion of the physical and mental health and social well-being of the workers individually and collectively. Occupational health practice must be performed according to the highest professional standards and ethical principles. Occupational health professionals must contribute to environmental and community health.

The duties of occupational health professionals include protecting the life and the health of the worker, respecting human dignity and promoting the highest ethical principles in occupational health policies and programmes. Integrity in professional conduct, impartiality and the protection of the confidentiality of health data and of the privacy of workers are part of these duties.

Occupational health professionals are experts who must enjoy full professional independence in the execution of their functions. They must acquire and maintain the competence necessary for their duties and require conditions which allow them to carry out their tasks according to good practice and professional ethics.
DUTIES AND OBLIGATIONS OF OCCUPATIONAL HEALTH PROFESSIONALS - contract

Aims and advisory role

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 assessment and health promotion, propose effective preventive measures and follow up their implementation. While responding to the health and safety needs expressed by employers, workers or authorities, the occupational health professionals should be proactive in terms of improving health and safety at work on the basis of their professional competence and ethical judgment. 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. (Written Report)

Knowledge and expertise

2. Occupational health professionals must continuously strive to be familiar with the work and the 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 organization 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.
Practical Ethics
Independence

Transparent
Authentic
Peer review

Justice
Truth
Bias
– be wary of
ass(u)me

Passion for (Action)
excellence
Practical Ethics

Bias

• “The goal of environmental activists is not to save the world from ecological calamity but to destroy capitalism” – Keith Bryer Aug 2015 on UN Climate Change meeting

• "It is preoccupation with possession (career/politics/ideology/money/fame), more than anything else, that prevents men from living freely and nobly." - Bertrand Russell
DUTIES AND OBLIGATIONS OF OCCUPATIONAL HEALTH PROFESSIONALS

Development of a policy and a programme
3. The occupational health professionals must advise the 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 and work-places. 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 an understanding of national regulatory requirements, and, in case of failure, for minimizing consequences. **The quality and effectiveness of occupational health programmes should be regularly audited in the objective of continual improvement.**

Emphasis on prevention and on a prompt action
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.**
DUTIES AND OBLIGATIONS OF OCCUPATIONAL HEALTH PROFESSIONALS

Follow-up of remedial actions
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 should be contacted, whenever necessary.

Information, communication and training
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 co-operate with the employer, the workers and their representatives to ensure adequate information and training on health and safety to the management personnel and workers. In communicating about risks at work and their management, occupational health professionals are required to address language barriers, cross-cultural differences and other diversities among the management personnel and workers that may affect the effectiveness of communication. 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.
DUTIES AND OBLIGATIONS OF OCCUPATIONAL HEALTH PROFESSIONALS

Commercial secrets
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.

Health surveillance
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 should be consistent with available scientific evidence and relevant good practice. The surveillance must be carried out with the noncoerced 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.
Information to the worker

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.

Information to the employer

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. In providing such information, the emphasis should be placed 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 or probable health effects of work hazards, maybe 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.
DUTIES AND OBLIGATIONS OF OCCUPATIONAL HEALTH PROFESSIONALS

Danger to a third party

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 been dangered.

Biological monitoring and investigations

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 or 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.
DUTIES AND OBLIGATIONS OF OCCUPATIONAL HEALTH PROFESSIONALS

Health promotion
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.

Protection of community and environment
14. Occupational health professionals must be aware of their role in relation to the protection of the community and of the environment. With a view to contributing to environmental health and public health, occupational health professionals must initiate and participate, as appropriate, in identifying, assessing, advertising and advising for the purpose of prevention on occupational and environmental hazards arising or which may result from operations or processes in the enterprise.
DUTIES AND OBLIGATIONS OF OCCUPATIONAL HEALTH PROFESSIONALS

Contribution to scientific knowledge

15. **Occupational health professionals must report** objectively to the scientific community as well as to the public health and labour authorities on new or suspected occupational hazards. They must also report on new and relevant preventive methods. Occupational health professionals involved in research must design and carry out their activities on a sound scientific basis with full professional independence and follow the ethical principles relevant to health and medical research work. **These include social and scientific value, scientific validity, fair subject selection, favourable risk benefit ratio, informed consent, respect for potential and enrolled subjects, review of protocols and potential conflicts of interest by an independent and competent ethics committee and protection of confidential data.** The occupational health professionals have a duty to make their research results publicly available. They are accountable for the accuracy of their results.
The mortality of those who dig minerals is very great, and women who marry men of this sort marry again and again. According to Agricola, at the mines in the Carpathian mountains, women have been known to marry seven times.
Practical Ethics
Scientific

Evidence based
Competence
Peer review
Report/Publish
Continual improvement
CONDITIONS OF EXECUTION OF THE FUNCTIONS OF OCCUPATIONAL HEALTH PROFESSIONALS

Competence, integrity and impartiality
16. Occupational health professionals must always act, as a matter of prime concern, in the interest of the health and safety of the workers. Occupational health professionals must base their judgments on scientific knowledge and technical competence and call upon specialized expert advice as necessary. Occupational health professionals must refrain from any judgment, advice or activity which may endanger the trust in their integrity and impartiality.

Professional independence
17. Occupational health professionals must seek and maintain full professional independence and observe the rules of confidentiality in the execution of their functions. Occupational health professionals must under no circumstances allow their judgment and statements to be influenced by any conflict of interest, in particular when advising the employer, the workers or their representatives in the undertaking on occupational hazards and situations which present evidence of danger to health or safety. Such conflicts may distort the integrity of the occupational health professionals who must ensure that the harm does not accrue with respect to workers’ health and public health as a result of conflicts.
CONDITIONS OF EXECUTION OF THE FUNCTIONS OF OCCUPATIONAL HEALTH PROFESSIONALS

Equity, non-discrimination and communication

18. The occupational health professionals must build a relationship of trust, confidence and equity with the people to whom they provide occupational health services. All workers should be treated in an equitable manner, without any form of discrimination as regards their condition, gender, social aspects, convictions or the reason which led to the consultation of the occupational health professionals. **Occupational health professionals must establish and maintain clear channels of communication among themselves, the senior management responsible for decisions at the highest level about the conditions and the organization of work and the working environment in the undertaking, and with the workers’ representatives.**
Organizational ethics and contracts of employment
19. The public or private institutions and organizations employing occupational health professionals should adopt a programme of organizational ethics that is aligned with the ethical principles of this Code. These institutions and organizations should enable and support the conduct of occupational health professionals according to the principles of the Code. Occupational health professionals must request that a clause on ethics be incorporated in their contract of employment. This clause on ethics should include, in particular, their right to apply professional standards, guidelines and codes of ethics. Occupational health professionals must not accept conditions of occupational health practice which do not allow for performance of their functions according to the desired professional standards and principles of ethics. Contracts of employment should describe advisory roles and responsibilities, state professional independence of occupational health professionals and contain the guidance on the legal, contractual and ethical aspects. Approaches for the management of conflict, access to medical records and the protection of confidential information should also be addressed. Occupational health professionals must ensure that their contract of employment or service does not contain provisions which could limit their professional independence. In case of doubt about the terms of the contract legal advice must be sought and the competent authority must be consulted as appropriate.
CONDITIONS OF EXECUTION OF THE FUNCTIONS OF OCCUPATIONAL HEALTH PROFESSIONALS

Records
20. Occupational health professionals must keep good records with the appropriate degree of confidentiality for the purpose of identifying occupational health problems in the enterprise. Such records include data relating to the surveillance of the working environment, personal data such as the employment history and occupational health data such as the history of occupational exposure, results of personal monitoring of exposure to occupational hazards and fitness certificates. Workers must be given access to the data relating to the surveillance of the working environment and to their own occupational health records.

Medical confidentiality
21. Individual medical data and the results of medical investigations must be recorded in confidential medical files which must be kept secured under the responsibility of the occupational health physician or the occupational health nurse. Access to medical files, their transmission and their release are governed by national laws or regulations on medical data where they exist and relevant national codes of ethics for health professionals and medical practitioners. The information contained in these files must only be used for occupational health purposes.
CONDITIONS OF EXECUTION OF THE FUNCTIONS OF OCCUPATIONAL HEALTH PROFESSIONALS

Collective health data
22. When there is no possibility of individual identification, information on aggregate health data on groups of workers may be disclosed to management and workers’ representatives in the undertaking or to safety and health committees, where they exist, in order to help them in their duties to protect the health and safety of exposed groups of workers. **Occupational injuries and work-related diseases must be reported to the competent authority according to national laws and regulations.**

Relationships with health professionals
23. Occupational health professionals must not seek personal information which is not relevant to the protection, maintenance or promotion of workers’ health in relation to work or to the overall health of the workforce. Occupational health physicians may seek further medical information or data from the worker’s personal physician or hospital medical staff, with the worker’s informed consent, but only for the purpose of protecting, maintaining or promoting the health of the worker concerned. In so doing, the occupational health physician must inform the worker’s personal physician or hospital medical staff of his or her role and of the purpose for which the medical information or data is required. With the agreement of the worker, the occupational health physician or the occupational health nurse may, if necessary, inform the worker’s personal physician of relevant health data as well as of hazards, occupational exposures and constraints at work which represent a particular risk in view of the worker’s state of health.
CONDITIONS OF EXECUTION OF THE FUNCTIONS OF OCCUPATIONAL HEALTH PROFESSIONALS

Combating abuses
24. Occupational health professionals must co-operate with other health professionals in the protection of the confidentiality of the health and medical data concerning workers. Occupational health professionals must identify, assess and point out to those concerned procedures or practices which are, in their opinion, contrary to the principles of ethics embodied in this Code and inform the competent authority when necessary. This concerns in particular instances of misuse or abuse of occupational health data, concealing or withholding findings, violating medical confidentiality or of inadequate protection of records in particular as regards information placed on computers.

Relationships with social partners
25. Occupational health professionals must increase the awareness of employers, workers and their representatives of the need for full professional independence and commitment to protect medical confidentiality in order to respect human dignity and to enhance the acceptability and effectiveness of occupational health practice.
CONDITIONS OF EXECUTION OF THE FUNCTIONS OF OCCUPATIONAL HEALTH PROFESSIONALS

Promoting ethics and professional conduct

26. Occupational health professionals must seek the support and cooperation of employers, workers and their organizations, as well as of the competent authorities, professional and scientific associations and other relevant national and international organizations, for implementing the highest standards of ethics in occupational health practice. Occupational health professionals must institute a programme of professional audit of their activities to ensure that appropriate standards have been set, that they are being met, that deficiencies, if any, are detected and corrected and that steps are taken to ensure continuous improvement of professional performance.

The full text of the ICOH Code of Ethics with its bibliography can be downloaded from: http://www.icohweb.org/site/code-of-ethics.asp
The UNIVERSAL DECLARATION OF HUMAN RIGHTS – 1948 - describe all human rights - civil, political, economic, social, cultural - life in dignity. It is a normative vision.

They represent the core of what society’s norms are and have the ideal of a free human being, liberated from fear and want and it ought to be realised in and for every single person. SA ratified in 1995 and incorporated into our constitutional value and judicial system.

This is the role of government in modern times – governments should be proactive and respond to all need. By blaming the victim you just undermine your legitimacy as government.