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Ethical Misconduct of HPCSA-Registered Occupational Therapists in South Africa (2014–2023): A Follow-Up Study

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Abstract

This study examines ethical misconduct among occupational therapists (OTs) in South Africa, which was reported to ¹⁰ the Health Professions Council of South Africa (HPCSA) between 2014 and 2023. It analyzes the transgression types and penalties imposed while building on Nortjé and Hoffmann's (2015) earlier findings. A total of 66 cases were reported and out of the 66 cases ¹ fraudulent conduct was the most common transgression (61 cases), followed by professional registration misconduct, ¹ improper professional role conduct, negligence, and performing ¹ procedures without patient consent. These 66 cases were committed by a total of nine offenders, five of whom were repeat offenders. Penalties ranged from fines (R10,000 to R210,000) to suspensions of up to two years and mandated ethics courses. Some of these fines fell below HPCSA minimums, raising concerns about consistency and enforcement. Compared to 2007–2013, this period had a larger number of violations, which reflects the changing professional demands and regulatory landscapes. The penalties for these violations remain largely punitive, which undermines rehabilitation and broader efforts to deter unethical behavior. This study highlights the need for continuous ethics training, consistent enforcement of penalties, and regular updates to regulatory frameworks to promote long-term ethical compliance and protect patient trust in occupational therapy practices.

Keywords: Ethical misconduct, occupational therapy, regulatory compliance

Introduction

⁸ The Health Professions Council of South Africa (HPCSA) is a regulatory body that oversees health professionals, such as Occupational Therapists (OTs), Medical Doctors, and Physiotherapists, to ensure they consistently adhere to ethical guidelines as set out by each professional board of the HPCSA. It sets professional standards, investigates misconduct complaints, and enforces penalties to maintain accountability and transparency. In South Africa, OTs face significant ethical challenges as they work to address the diverse and changing needs of their patients. They aim to help people live fuller, more independent lives by improving their ability to perform daily activities, adapt to changes, and maintain both physical function and mental well-being, all while upholding strong ethical principles (1). These aspects of their responsibilities address human rights concerns, which adds an additional layer of ethical and political responsibilities (2). These ethical responsibilities demand OTs to make decisions that impact patient functionality and independence, which underlines ¹² the importance of compliance with ethical standards. ³ The HPCSA guides these ethical standards by placing great importance on ethical conduct toward patients and expects registered professionals to act according to these expectations (3).

Since 2014, there have been changes in the regulatory healthcare landscape in South Africa, including updates to the HPCSA's penalty regulations. ⁷ The recent changes to the HPCSA's professional conduct inquiry process have improved efficiency and practitioner well-being. These reforms are designed to streamline the inquiry process, potentially leading to quicker resolutions and less stress for practitioners (4). The HPCSA has also set minimum and maximum fine ranges that vary depending on the transgression. Previously, there was no established minimum, and fines did not exceed R10,000¹ and often were set in the lower range (5). These

earlier regulations lacked clearly defined fine structures, which may have led to variability in how penalties were determined based on the different kinds of transgressions.

The study by Nortjé and Hoffmann (6) highlighted key issues in the landscape of occupational therapy ethics, particularly in identifying areas where ethics violations were most prevalent.

Their research identified instances of misconduct involving submitting reports without proper patient assessments and submitting fraudulent statements to a healthcare insurance provider.

These unethical practices not only breached professional trust, but they have also compromised the integrity of patient care. To address these concerns the study recommended improving communication with clients to ensure transparency and understanding and fostering peer mentoring groups to support OTs in navigating ethical dilemmas.

A decade after the study by Nortjé and Hoffmann (6) the current study revisits guilty verdicts of OTs in South Africa. The following are the objectives of our study:

- ❖ Analyze guilty verdicts from 2014 to 2023 to identify transgressions, penalties imposed, and trends over time.
- ❖ Assess the impact of recent HPCSA regulatory changes and identify any limitations or potential areas for improvement in the implementation of penalties.
- ❖ Examine how the transgressions among OTs have evolved since the recommendations of the 2007-2013 study and explore any changes in trends related to ethical compliance and penalties.

Methodology

Sample

¹ At the time of reporting (01-Jan-2025), the exchange rate was approximately 1 ZAR = 0.065 USD and 1 ZAR = 0.061 EUR. This means the fines ranged from about 1,300 USD (1,220 EUR) to 13,650 USD (12,810 EUR) for international comparison.

This study analyzed all the ethical conduct transgression cases of registered OTs, reported between 2014 and 2023, in South Africa. The annual formal transgression and judgment records are publicly available on the HPCSA's website

[<https://www.hpcsa.co.za/?contentId=338&actionName=Publications>].

Procedure

The HPCSA annually publishes a formal list of all the sanctioned professional misconduct cases.

These published cases are listed chronologically by the month in which the sanction was determined. Each ethical transgression case contains the following information:

- Practitioner name
- The practitioner's registration number with the HPCSA
- Nature of the complaint
- The issued penalty
- Location / Town

The frequency of penalties and ethical transgression content for each year in the period 2014-2023 were analyzed by a team of researchers. In essence, a mixed-methods approach was followed. The quantitative component focused on annual frequency data regarding the number of practitioners per professional category who were found guilty of unprofessional and/or unethical conduct by the HPCSA's Professional Conduct Committee, the number of guilty decisions (cases), and the number of specific sanctions and sanction categories. The qualitative research component focused on a historical research approach, using archival material as a primary data source and organizing the available data into one of nine general categories and one of 180 identified specific subcategories of transgressions. This allowed the review of trends amongst specific forms of transgressions, as well as macro-level "transgression clusters."

Ethics Consideration

⁶ All the data sourced and analyzed in this study were obtained from the publicly available records on the official HPCSA website. As such, it was not necessary to obtain formal ethics clearance for this study. Although the published lists include identifying information for practitioners, such as names and registration numbers, these ² are not reported in this paper. Consequently, the study results are reported anonymously. Therefore, the sanctioned practitioners' names and HPCSA registration numbers were deemed to be irrelevant to the aim of the article and does not form part of any reported data.

Data Analysis

Following the initial analysis of the transgressions and penalties for all healthcare professional categories from the HPCSA's records, a subset of data specific to OTs was extracted for further analysis. The initial step in the data analysis involved cleaning the data using Excel. Any empty values were marked as N/A. All the transgressions were then cross-checked against the list of general transgression types to ensure that the OTs' identified general transgression types were consistent with the specific subtypes. To maintain consistency and identify repeat offenders, all the offending practitioners' registration numbers were standardized and used in RStudio to identify repeat offenders. Specifically, it was determined whether specific practitioners had reoffended and, if so, whether they engaged in the same or different transgressions in the same or different years. The transgression data was then analyzed in Excel to determine the number of transgressions per professional category and identify the most common transgressions among OTs. For the penalties data, frequency tables were created in Excel to ensure that the penalties aligned with the penalty rules set by the HPCSA. Finally, the year that each transgressor was registered to practice was subtracted from the current year (2024), to calculate the average years

of practice for all the transgressors. This allowed for the exploration of any potential correlation between the number of years in practice and the likelihood of recommitting an ethical transgression.

Results

The data analysis identified nine OTs who committed a total of 66 transgressions between 2014 and 2023. Among these nine professionals, five were repeat offenders, who have committed multiple transgressions, either the same or different types. All repeat offenders had at least one transgression in common, namely fraudulent conduct. Fraudulent conduct was found to be the most prevalent type of transgression, accounting for 61 out of the 66 total transgressions (Table 1). The remaining five transgression categories included the following: professional registration misconduct; ²improper professional role conduct; negligence or incompetence in evaluating, treating, and caring for patients; and performing procedures without patient consent.

TABLE 1: Frequency (percentage) of cases per transgression category (2014–2023)

² Transgression Category	Number of Transgressions (% of total number of transgressions)
Fraudulent Conduct	61 (92%)
Professional Registration Misconduct	2 (3%)
² Improper Professional Role Conduct	1 (2%)
Negligence or Incompetence	1 (2%)
Performing Procedures Without Patient Consent	1 (2%)

It is also worth noting that one outlier significantly influenced the data. This practitioner was found guilty of 47 counts of fraudulent conduct, which may have skewed the overall analysis. However, even excluding this outlier, fraudulent conduct remained the most prevalent transgression recorded. Looking at the pattern of years of practice and ethical transgressions, the average length of practice at the time of the transgression was 18.89 years, with a standard deviation of 7.32 and a minimum practice period of 9 years.

The penalties reported for the transgressions ranged from R10,000 to R210,000, with a total of 10 monetary penalties imposed (Table 2). In addition to these fines, suspensions ranging from 3 months to 2 years were recorded in 5 cases. Other penalties included participation in a course on ethics (2 cases) and attendance in a practice management course (1 case). Notably, there were no

recorded data points for caution and reprimand or additional training, which shows that the penalties were focused on primarily financial and temporal suspensions.

TABLE 2: Frequency of penalties imposed on transgressions (2014–2023)

Penalty	2014	2015	2018	2021	2022	Total
Fine: R10,000	1	2	-	-	-	3
Fine: R30,000	-	-	1	1	2	4
Fine: R50,000	-	-	-	-	1	1
Fine: R150,000	-	-	-	1	-	1
Fine: R210,000	-	-	-	1	-	1
Suspension: 2 years	-	-	1	2	1	4
Attendance of Ethics Management Course	-	-	-	1	1	2
Attendance of Practice Management Course	-	-	-	1	-	1

Discussion

Neutralization and Rationalization of Fraudulent Conduct

The analysis of ethical misconduct among OTs in South Africa from 2014 to 2023 highlights several note-worthy issues. The current study found that the most common transgression among these professionals was fraudulent conduct. This persistent issue suggests that current regulations may not effectively deter such behaviour, giving offenders the opportunity to re-offend. As highlighted by Evans and Porche (7), the rationalization that fraud does not directly harm patients is a significant neutralizing factor. Many professionals justify ethical transgressions by denying responsibility, minimizing harm, or shifting blame. When healthcare practitioners'

distance themselves from the impact of their actions in this way, it becomes important to reinforce professional accountability duties. Accountability, as an essential component of professionalism, ensures that healthcare professionals take responsibility for their actions and uphold ethical standards in patient care (8). By fostering accountability within professional practice, ethical training can be strengthened to not only deter misconduct but also promote responsibility.

Reflective Practice and Ethical Training

The penalties imposed for the 2014-2023 transgressions were mainly punitive and temporary, focusing on fines and suspensions rather than rehabilitative or educational interventions. However, ³ punitive measures alone are insufficient to address the root causes of ethical transgressional behaviour. Reflective practice, which promotes self-awareness, critical thinking, and adherence to ethical standards, should be implemented more widely (9). Encouraging professionals to engage in ethical reflection, can develop a deeper understanding of their professional responsibilities and the long-term impact of their actions. The minimum years of experience of the transgressors was found to be 9 years. This indicates that earlier ethics training may not have been sufficiently integrated or reinforced throughout their careers. Additionally, long-time practitioners may become desensitized to ethical guidelines over time, making transgressions easier to commit. Therefore, implementing ethics training, mentorship through a coach with clinical ethics background, and reflective practice can help deter unprofessional practices.

Comparison with Previous Study and Regulatory Changes

Comparatively, the study by Nortjé and Hoffmann (6) identified fewer transgressions, primarily involving minor incidents of fraud and unprofessional conduct. However, the current study

highlights a broader range of ethical violations, which shows a shift in both the frequency and type of transgression. We can also see a change in the type of penalties imposed by the HPCSA from 2007-2013 compared to the current study. The previous penalties for submitting a fraudulent report were a 6-month suspension and reimbursement of charges while submitting reports without patient assessment had a penalty of R7,000 fine. We can see changes in the fines imposed as the minimum fine for the current study was R10,000. Most of the fines correlated to the new HPCSA rules of a minimum fine of R20,000 and a maximum of R70,000 for fraudulent conduct and negligence. Even though we see progression from the previous years in the seriousness of the punishments, it is worth noting that the penalties are still predominantly focused on punitive monetary measures. This approach could undermine the corrective value of the offenses as most of these penalties were in the lower ranges of the new regulations. Research supports that combining punitive measures with rehabilitative strategies is more effective in deterring ethical transgressions (10).

Recommendation

Based on these findings, we proposed four key recommendations to address the identified issues while also encouraging long-term ethical behaviour among OTs.

- **Integrating Comprehensive Ethics Training:** Even though continuous professional development (CPD) activities are a requirement for OTs to maintain their HPCSA registration status, the researchers believe incorporating comprehensive ethics education along with punitive measures is important to address the root causes of unethical behaviour and promote long-term ethical conduct. By encouraging self-awareness, critical thinking, and a commitment to ethical standards, these trainings can support practitioners to deeply understand and consistently apply ethical principles in their daily professional practices.

- **Increasing Penalty Severity and Consistency:** Ensuring that penalties for transgressions consistently meet the HPCSA regulations' minimum fines, is important to emphasize the seriousness of these offenses. Stricter adherence to the established penalty ranges will increase the deterrent effect by indicating to all practitioners that unethical behavior will not be tolerated and will result in serious consequences. This consistency in penalty severity could help to reduce repeat offenses and maintain high ethical standards in the profession.
- **Promoting reporting of unethical behaviour:** Cases of unethical practices could go underreported, due to fear of retaliation, lack of awareness on reporting procedures, or skepticism about whether action will be taken. Therefore, creating accessible and anonymous reporting channels can help people feel safer to report cases. Additionally, raising awareness about the importance of protection for those who report misconduct, can foster a system where ethical concerns are addressed proactively. Strengthening reporting mechanisms will not only help identify and prevent unethical behavior but also reinforce a shared commitment to professionalism and integrity in patient care.
- **Regular review and update of regulations:** In the ever-changing world of healthcare, it is important to conduct regular reviews of the HPCSA regulations to adapt to the evolving nature of ethical challenges. This should include updates to penalty structures and the review of CPD requirements to keep practitioners informed and conscious. This could help OTs be aware of current and emerging challenges and better navigate ethical dilemmas.

Limitations

A limitation of the data analysis is that one transgressor committed 47 of the 66 incidents, which may have skewed our results. Moreover, the data reported by the HPCSA is an amalgamation of reports from each of its professional boards, which can lead to inconsistencies in terminology.

We identified several minor inconsistencies in the HPCSA records, such as misidentifications of transgressors, double counting of certain transgressions, and unexplained omissions. However, we believe these issues were not significant enough to compromise our conclusions or diminish the utility of the HPCSA's records. Finally, it is important to note that the 2019 data was not available from the HPCSA hence it wasn't included in our study.

Conclusion

The analysis of ethical misconduct among OTs in South Africa from 2014 to 2023 highlights several critical issues. The current study found that the most common transgression among these professionals was fraudulent conduct. This persistent issue suggests that current regulations may not effectively deter such behaviour, allowing offenders to re-offend. As highlighted by Evans and Porche (7), the rationalization that fraud does not directly harm patients is a significant neutralizing factor. Further studies are required regarding how such unethical behaviour can erode patient and societal trust in the medical field, compromise patient care, and lead to broader systemic issues of unethical conduct. The penalties imposed during the study period were predominantly punitive and temporary, focusing on fines and suspensions and less on rehabilitative and comprehensive training and education. The emphasis on ³ punitive measures alone is insufficient to address the root causes of unethical behaviour. Reflective practice, which promotes self-awareness, critical thinking, and adherence to ethical standards, should be implemented more widely (9). Our findings also reveal that many offenders had extensive years of practice, suggesting that earlier ethics training may not have been as integrated or focused as needed. Additionally, long-time practitioners may become desensitized to rules, making ethical violations easier to commit.

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