



# RISKS AND RIGOURS IN THE MEDICOLEGAL FIELD

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(under the auspices of the  
Medicolegal OT Interest Group)

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# Workshop overview

- ◆ Introduction
- ◆ MPS input
- ◆ Legal perspective
- ◆ Overview of key risks and rigours
- ◆ Small group work
- ◆ Plenary feedback session
- ◆ Closure



# Changing practice realities

- ◆ Technological advances creating urgency, opportunities for mishaps and fraud
- ◆ Multiple communication streams
- ◆ Social media
- ◆ Differing court practices and directives
- ◆ Business structure issues
- ◆ Employer-employee arrangements
- ◆ Accreditation and licensing issues
- ◆ Legislation changes – eg: RAF to RABS



# Escalating premiums for indemnity cover


Year-on-year escalation in OT premiums to MPS:

- ◆ 2012-2013 R790-R830 5% rise
- ◆ 2013-2014 R830-R880 6% rise
- ◆ 2014-2015 R880-R940 6.8% rise
- ◆ 2015-2016 R940-R1,080 14.9% rise



# Risks identified by 109 medicolegal practitioners

Inadequate preparation/training	21%
Unprofessionalism (eg: bias, poor reasoning)	21%
“Come-backs” (claims and complaints)	8%
Harm to professional reputation	8%
Financial insecurity and costs of practice	7%
Time & practice management challenges	7%
Scope and interdisciplinary issues	7%
“Egg-on-face” in court	7%
Legislation changes and related effects	4%
Unsure what the risks are	8%
No risks	1%



## Example of an adverse HPCSA finding against a medicolegal OT (2008)

**Finding:** GUILTY of unprofessional conduct or conduct which, when regard is had to your profession, is unprofessional in that during 2001 you furnished [the referring attorney] with an Addendum to a draft report drawn up by your former partner, regarding her patient without personally assessing the patient.



## Outcome:

The OT paid an admission of guilt fine of R7,000, without appearing at the inquiry.

## Be aware:

While a complaint/inquiry is pending against you at the HPCSA, you CANNOT get a certificate of good standing!





# Small group work

- ◆ Assign a scribe and spokesperson
- ◆ Consider the particular RISK/RIGOUR assigned to your group.
- ◆ Briefly canvas group members' opinions as to whether this is a FREQUENT issue facing medicolegal OTs.
- ◆ Brainstorm ways in which practitioners can address it or protect themselves against it.





# Useful resources

- ◆ Medicolegal OT Interest Group, INSTOPP
- ◆ MPS website, CaseBook, resources and training
- ◆ South African Medicolegal Association
- ◆ Training offered by, eg: The Skills Basket
- ◆ Robbins, Judd (2010). Expert Witness Training. Presentation Dynamics.
- ◆ Samuels, Alec (2012). Suing the expert for negligence? J Med Sci Law 52:50. DOI: 10.1258/mdl.2011.011094
- ◆ Randall, L – chapter on “Psychiatric OT in the corporate, insurance and medicolegal sectors” in Crouch & Alers (eds) Occupational Therapy in Psychiatry and Mental Health, 5<sup>th</sup> edition



*...for newer entrants to the  
field*

**M-E-N-T-O-R-I-N-G**  
is highly recommended!



...and watch this space!

The Medicolegal OT Interest Group, under the auspices of INSTOPP, has been drafting medicolegal practice guidelines. These will be circulated for comment in late 2016/ early 2017.

OTASA will be asked to ratify the final document as an official policy. It may then be offered to the Professional Board as a resource for complaint resolution.



THANK YOU  
FOR YOUR TIME

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