



**JON S. CORZINE**  
Governor

## ***New Jersey Office of the Attorney General***

Division of Consumer Affairs  
Occupational Therapy Advisory Council  
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**RE: N.J.A.C. 13:44K-5.4**

The Occupational Therapy Advisory Council has received your letter concerning its recently adopted regulations pertaining to the use of physical agent modalities. N.J.A.C. 13:44K-5.4.

The Council spent several months reviewing the nature of various physical agent modalities, the curricula at occupational therapy and occupational therapy assisting programs, the laws and regulations of other jurisdictions, and information provided by the American Occupational Therapy Association. That review resulted in the Council and the Director of the Division of Consumer Affairs proposing and ultimately adopting the rules that were published on May 4, 2009.

The newly adopted rules define physical agent modalities and require additional training be obtained by occupational therapists prior to using certain advanced physical agent modalities. The rules reflect the determination that advanced physical agent modalities are best administered by occupational therapists who receive additional training.

The Council recognized the difference in training received by an occupational therapist and an occupational therapy assistant and therefore chose to prohibit delegation of advanced physical agent modalities to assistants. It should be noted, however, that an occupational therapist may continue to delegate the use of superficial thermal agents, such as hydrotherapy/whirlpool, cryotherapy (cold packs, ice), fluidotherapy, hot packs, paraffin, water, infrared light and other commercially available heating and cooling technologies, as well as mechanical devices, such as vasopneumatic and continuous passive motion devices, to occupational therapy assistants.

Several commenters to the regulatory proposal urged the Council to reconsider its rule that precluded the delegation of advanced physical agent modalities to occupational therapy assistants. The Council has indicated that it will seek additional information to determine whether amending the rule is consistent with the public health, safety and welfare. That review is ongoing.

The Council acknowledges your letter indicating support for such a change and will add your name to the list of interested persons in the event that the Council decides to propose an amendment to its rule.

**OCCUPATIONAL THERAPY ADVISORY COUNCIL**

by: Laura L. Anderson, Executive Director

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