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RULE ADOPTIONS
Law and Public Safety
Division of Consumer Affairs
OCCUPATIONAL THERAPY ADVISORY COUNCIL

Readoption with Amendments: *N.J.A.C. 13:44K*

Adopted New Rules: *N.J.A.C. 13:44K-1.3, 5.4, 8.6, 8.7, 8.8 and 8.9*

Occupational Therapy Advisory Council Rules

Proposed: November 3, 2008 at *40 N.J.R. 6391(a)*.

Adopted: February 5, 2009 by New Jersey Division of Consumer Affairs, in consultation with the Occupational Therapy Advisory Council, David Szuchman, Director.

Filed: March 31, 2009 as R.2009 d.141, **with substantive and technical changes** not requiring additional public notice and comment (see *N.J.A.C. 1:30-6.3*).

Authority: *N.J.S.A. 45:1-15* and *45:9-37.51* et seq.

Effective Dates: March 31, 2009, Readoption; May 4, 2009, Amendments and New Rules.

Expiration Date: March 31, 2014.

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments and new rules are governed by *N.J.S.A. 45:9-37.51* et seq., and are not subject to any Federal requirements or standards.

Full text of the readopted rules can be found in the New Jersey Administrative Code at *N.J.A.C. 13:44K*.

Full text of the adopted amendments and new rules follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 1. GENERAL PROVISIONS

13:44K-1.1 Purpose and scope

(a)-(b) (No change.)

(c) This chapter shall not apply to those individuals exempt from the licensure requirements of the Act pursuant to *N.J.S.A. 45:9-37.60*, except as provided in *N.J.A.C. 13:44K-1.3*.

13:44K-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

...

"Client" means a person, group of persons or a system, that receives professional services rendered by a licensed occupational therapist, a licensed occupational therapy assistant or a temporary licensed occupational therapist or assistant in medical, health, educational, vocational or social settings.

...

"Licensee" means any individual holding a license to provide occupational therapy services in the State of New Jersey.

...

"Supervision" means the responsible and direct involvement of a licensed occupational therapist with an occupational therapy assistant, a temporary licensed occupational therapist, a temporary licensed occupational therapy assistant or an occupational therapy student fulfilling the required fieldwork component of his or her educational training, for the development of an occupational therapy treatment plan and the periodic review of the implementation of that plan. Such supervision shall be close, routine or general, consistent with the following:

1. "Close supervision" means daily, face-to-face contact with and frequent observation of the performance of the individual at the location where he or she is rendering services;
2. "Routine supervision" means face-to-face contact with and observation of the performance of the individual at least once a week at the location where he or she is rendering services; and
3. "General supervision" means face-to-face contact with and observation of the performance of the individual at least once every two weeks at the location where he or she is rendering services.

...

13:44K-1.3 Occupational therapy services performed for 60 days without a license

(a) For purposes of this section, the term "in association with" means an employment relationship, independent contractor relationship, consultant relationship, or other agreement between a New Jersey licensed occupational therapist and an occupational therapist or occupational therapy assistant licensed in another state, whereby the New Jersey licensed occupational therapist agrees to assume the responsibilities set forth in this section.

(b) An occupational therapist or occupational therapy assistant licensed in another state with regulatory requirements that are substantially equivalent to the requirements in New Jersey shall be permitted to engage in the practice of occupational therapy in this State, in association with a New Jersey licensed occupational therapist who satisfies the requirements of (c) below, for up to 60 days in a calendar year without obtaining a license, pursuant to *N.J.S.A. 45:9-37.60(e)*, consistent with the requirements of this section.

[page=2023] (c) The New Jersey licensed occupational therapist with whom an occupational therapist or occupational therapy assistant licensed in another state seeks to work in association with pursuant to (b) above shall:

1. Have a license in New Jersey that is active and in good standing, other than a temporary license;
2. Obtain confirmation from the Council that the state in which the occupational therapist or occupational therapy assistant is licensed has regulatory requirements that are substantially equivalent to the requirements in New Jersey;
3. Submit written notification to the Council of the occupational therapist or occupational therapy assistant's decision to work in New Jersey pursuant to this section, within seven business days of the commencement of work in New Jersey. The written notification shall include the occupational therapist or occupational therapy assistant's name, address, states of licensure, out-of-State license numbers and the address in New Jersey where he or she will be providing occupational therapy services. The written notification shall also include a statement that the New Jersey licensee has verified with the licensing authority in each state in which the occupational therapist or occupational therapy assistant is licensed that:
 - i. The licensee is in good standing; and
 - ii. The occupational therapist or occupational therapy assistant has not been convicted of a crime and does not have any criminal charges pending;

4. Provide a copy of the Occupational Therapy Licensing Act, *N.J.S.A. 45:9-37.51* et seq., and the rules of this chapter to the occupational therapist or occupational therapy assistant prior to the commencement of work in New Jersey and shall ensure that the occupational therapist or occupational therapy assistant complies with all requirements set forth in the Act and in this chapter; and

5. Submit written notification to the Council whenever the association between the licensee and the occupational therapist or occupational therapy assistant is completed or is terminated. Such notification shall be submitted within seven business days of the completion or termination of the association.

(d) Failure on the part of an occupational therapist or occupational therapy assistant licensed in another state to comply with the requirements of *N.J.S.A. 45:9-37.60(e)* or this section while providing occupational therapy services in New Jersey shall be deemed a violation of the Occupational Therapy Licensing Act, *N.J.S.A. 45:9-37.60(e)*, and this section. The Council shall give notice of such violation to the licensing authority in the state in which the occupational therapist or occupational therapy assistant is licensed. Such violation may be considered by the Council in evaluating any application by the occupational therapist or occupational therapy assistant for occupational therapy licensure in New Jersey.

(e) The New Jersey licensed occupational therapist with whom an occupational therapist or occupational therapy assistant licensed in another state seeks to work in association shall comply with the requirements set forth in (c) above in each calendar year that such association takes place.

(f) The New Jersey licensed occupational therapist who works in association with an occupational therapist or occupational therapy assistant licensed in another state shall maintain all documentation regarding such associations for a period of five years from the date of termination of each association.

(g) A New Jersey licensed occupational therapist who fails to comply with the requirements of this section shall be deemed to have engaged in professional misconduct.

SUBCHAPTER 2. OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS: ELIGIBILITY REQUIREMENTS

13:44K-2.1 Eligibility requirements; occupational therapist; occupational therapy assistant

(a) To be eligible for licensure as an occupational therapist, an applicant shall:

1.-2. (No change.)

3. Have successfully completed:

i. (No change.)

ii. A bachelor's degree or its equivalent in any field other than occupational therapy from an accredited college or university approved by the Commission on Higher Education or its successor and have fulfilled the academic requirements of an educational program in occupational therapy accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, the World Federation of Occupational Therapy or other nationally recognized programmatic accrediting agency;

4.-5. (No change.)

(b) To be eligible for licensure as an occupational therapy assistant, an applicant shall:

1.-2. (No change.)

3. Have successfully completed:

i. (No change.)

ii. An associate's degree or its equivalent in any field other than occupational therapy from an accredited college or university approved by the Commission on Higher Education or its successor and have fulfilled the academic requirements of an educational program for occupational therapy assistant accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, the World Federation of Occupational Therapy or other nationally recognized programmatic accrediting agency;

4.-5. (No change.)

SUBCHAPTER 3. OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS: LICENSING PROCEDURE

13:44K-3.1 Licensing procedure: occupational therapist

(a) An applicant for licensure as an occupational therapist shall submit the following to the Council:

1. A completed application form, which contains the following:

i. (No change.)

ii. If the applicant has received a bachelor's degree or its equivalent in any field other than occupational therapy, documentation of the applicant's education, including official transcripts, which indicate that the applicant has completed the academic requirements of an educational program in occupational therapy accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, the World Federation of Occupational Therapy or other nationally recognized programmatic accrediting agency, which shall be forwarded to the Council directly by the educational program. If the applicant has completed all academic and administrative requirements necessary for completion of an educational program in occupational therapy, but has not had the program certificate conferred by the educational institution, the applicant may apply for a temporary license pursuant to *N.J.A.C. 13:44K-4.1(b)*;

iii. Documentation that the applicant has successfully completed at least 24 weeks of supervised fieldwork experience, with a minimum of 720 hours, approved by the educational institution at which the applicant completed the occupational therapy education program in accordance with (a)1i or ii above, which shall be submitted to the Council directly by the educational institution. The applicant shall have completed the 24 weeks of supervised fieldwork experience within 24 months of completing the academic requirements of the educational institution;

iv.-viii. (No change.)

2. The application fee set forth in *N.J.A.C. 13:44K-11.1*;

3. A two inch by two inch, recent head and shoulder photo of the applicant, certified by a Notary Public, and signed by the applicant; and

4. The applicant's name, address and fingerprints for purposes of a criminal history background check to be conducted by the State of New Jersey pursuant to *N.J.S.A. 45:1-28 et seq.*, to determine whether criminal history record information exists, which may be considered by the Council in determining whether the applicant shall be licensed in the State.

13:44K-3.2 Licensing procedure: occupational therapy assistant

(a) An applicant for licensure as an occupational therapy assistant shall submit the following to the Council:

[page=2024] 1. A completed application form, which contains the following:

i. (No change.)

ii. If the applicant has received an associate's degree or its equivalent in any field other than occupational therapy, documentation, including official transcripts, which indicate that the applicant has completed the academic requirements of an educational program for occupational therapy assistants accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, the World Federation of Occupational Therapy or other nationally recognized programmatic accrediting agency, which shall be forwarded to the Council directly by the educational program. If the applicant has completed all academic and administrative requirements necessary for completion of an educational program in occupational therapy, but has not had the program certificate conferred by the educational institution, the applicant may apply for a temporary license pursuant to *N.J.A.C. 13:44K-4.1(b)*;

iii. Documentation that applicant has successfully completed at least 12 weeks of supervised fieldwork experience, with a minimum of 360 hours, approved by the educational institution at which the applicant completed the occupational therapy education program in accordance with (a)1ii above, which shall be forwarded to the Council directly by the educational institution. The applicant shall have completed the 12 weeks of supervised fieldwork experience within 12 months of completing the academic requirements of the educational institution;

iv.-vi. (No change.)

vii. A "Verification of State License" form from any state in which the applicant is now or has ever been licensed to practice as an occupational therapy assistance, which shall be forwarded to the Council directly by the state in which the license is or was held; and

viii. (No change in text.)

2. The application fee set forth in *N.J.A.C. 13:44K-11.1*;

3. One two inch by two inch, recent head and shoulder photo of the applicant, certified by a Notary Public, and signed by the applicant; and

4. The applicant's name, address and fingerprints for purposes of a criminal history background check to be conducted by the State of New Jersey pursuant to *N.J.S.A. 45:1-28 et seq.*, to determine whether criminal history record information exists, which may be considered by the Council in determining whether the applicant shall be licensed in the State.

SUBCHAPTER 4. TEMPORARY LICENSES

13:44K-4.1 Temporary license

(a) (No change.)

(b) A temporary license shall be available to an applicant for licensure as an occupational therapist or an occupational therapy assistant who has completed all academic and administrative requirements for a degree or certificate in occupational therapy but has not had the degree or certificate conferred by the university or college, provided that the applicant satisfies the requirements of (c) or (d) below.

(c) An applicant for temporary licensure as an occupational therapist shall submit the following to the Council:

1. A completed application form, which contains the following:

i. (No change.)

ii. If the applicant has received a bachelor's degree or its equivalent in any field other than occupational therapy, documentation, including official transcripts, which indicate that the applicant has completed the academic requirements of an educational program in occupational therapy accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, the World Federation of

Occupational Therapy or other nationally recognized programmatic accrediting agency, which shall be forwarded to the Council directly by the educational program. If the applicant has completed all academic and administrative requirements necessary for completion of an educational program in occupational therapy, but has not had the program certificate conferred by the educational institution, the applicant may submit a letter from the director of the occupational therapy program, until the official transcript becomes available, verifying that all requirements of the educational program have been completed;

iii. Documentation that the applicant has successfully completed at least 24 weeks of supervised fieldwork experience, with a minimum of 720 hours, approved by the educational institution at which the applicant completed the occupational therapy education program in accordance with (b)1i or ii above, which shall be submitted to the Council directly by the educational institution. The applicant shall have completed the 24 weeks of supervised fieldwork experience within 24 months of completing the academic requirements of the educational institution;

iv.-v. (No change.)

vi. A "Verification of State License" form from any state in which the applicant is now or has ever been licensed to practice as an occupational therapist, which shall be forwarded to the Council by the state in which the license is or was held; and

vii. (No change in text.)

2. The application fee set forth in *N.J.A.C. 13:44K-11.1*;

3. One two inch by two inch, recent head and shoulder photo of the applicant, certified by a Notary Public, and signed by the applicant; and

4. The applicant's name, address and fingerprints for purposes of a criminal history background check to be conducted by the State of New Jersey pursuant to *N.J.S.A. 45:1-28 et seq.*, to determine whether criminal history record information exists, which may be considered by the Council in determining whether the applicant shall be licensed in the State.

(d) An applicant for temporary licensure as an occupational therapy assistant shall submit the following to the Council:

1. A completed application form, which contains the following:

i. (No change.)

ii. If the applicant has received an associate's degree or its equivalent in any field other than occupational therapy, documentation, including official transcripts, which indicate that the applicant has completed the academic requirements of an educational program in occupational therapy accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, the World Federation of Occupational Therapy or other nationally recognized programmatic accrediting agency, which shall be forwarded to the Council directly by the educational program. If the applicant has completed all academic and administrative requirements necessary for completion of an educational program in occupational therapy, but has not had the program certificate conferred by the educational institution, the applicant may submit a letter from the director of the occupational therapy program, until the official transcript becomes available, verifying that all requirements of the educational program have been completed;

iii. Documentation that the applicant has successfully completed at least 12 weeks of supervised fieldwork experience, with a minimum of 360 hours, approved by the educational institution at which the applicant completed the occupational therapy education program in accordance with (c)1ii above, which shall be forwarded to the Council directly by the educational institution. The applicant shall have completed the 12 weeks of supervised fieldwork experience within 12 months of completing the academic requirements of the educational institution;

iv.-v. (No change.)

vi. A "Verification of State License" form from any state in which the applicant is now or has ever been licensed to practice as an occupational therapist, which shall be forwarded to the Council by the state in which the license is or was held; and

vii. (No change in text.)

2. The application fee set forth in *N.J.A.C. 13:44K-11.1*;

3. One two inch by two inch, recent head and shoulder photo of the applicant, certified by a Notary Public, and signed by the applicant; and

4. The applicant's name, address and fingerprints for purposes of a criminal history background check to be conducted by the State of New Jersey pursuant to *N.J.S.A. 45:1-28* et seq., to determine whether criminal history record information exists, which shall be considered by the Council in determining whether the applicant shall be licensed in the State.

13:44K-4.2 Expiration of temporary license; renewal of temporary license

(a)-(b) (No change.)

[page=2025] (c) A temporary license shall be renewable one time only. A temporary license holder seeking renewal of a temporary license shall submit a written request for renewal to the Council, within 10 business days of the expiration of the temporary license, certifying that he or she has requested a "Confirmation of Examination Registration and Eligibility to Examine Notice" from the National Board for Certification in Occupational Therapy (NBCOT), which shall be sent directly to the Council from NBCOT. The temporary license holder shall also submit the renewal fee set forth in *N.J.A.C. 13:44K-11.1*.

(d) A temporary license, which has been renewed pursuant to (c) above shall automatically expire upon notification to the temporary license holder from NBCOT that he or she has failed the licensure examination for the second time or upon the temporary license holder's failure to take the licensure examination for the second time within 180 days of the date of issuance of the renewal. The temporary license holder shall immediately cease practice and surrender the temporary license to the Council upon such notification or upon expiration of the 180 days. Failure to cease practicing shall be deemed professional misconduct and the unlicensed practice of occupational therapy and may subject a licensee to the penalties set forth in *N.J.S.A. 45:1-21* et seq.

(e) A temporary license shall expire within 180 days of the temporary license holder's receipt of notification from NBCOT that he or she has passed the licensure examination. The temporary license holder shall cease practicing under the temporary license no later than 180 days after receiving the NBCOT notification. The temporary license holder shall submit all documentation required for licensure as provided in *N.J.A.C. 13:44K-2.1*, and shall surrender the temporary license to the Council within 180 days of NBCOT notification. Failure to cease practicing shall be deemed professional misconduct and the unlicensed practice of occupational therapy and may subject a licensee to the penalties set forth in *N.J.S.A. 45:1-21* et seq.

(f) A temporary license issued pursuant to *N.J.A.C. 13:44K-4.1(b)* to an applicant for licensure who has completed the academic and administrative requirements necessary for an occupational therapy degree or certificate, but who has not had the degree or certificate conferred, shall be valid for 180 days from the date of issuance. The temporary license holder shall cease practicing under the temporary license no later than 180 days after the date the license is issued. The temporary license holder shall submit an official transcript of his or her education to complete his or her licensure application, as provided in *N.J.A.C. 13:44K-2.1*, and shall surrender the temporary license to the Council within 180 days of the date of issuance. Failure to cease practicing shall be deemed professional misconduct and the unlicensed practice of occupational therapy and may subject a licensee to the penalties set forth in *N.J.S.A. 45:1-21* et seq.

SUBCHAPTER 5. SCOPE OF PRACTICE

13:44K-5.1 Scope of practice of a licensed occupational therapist

(a) The scope of practice of a licensed occupational therapist shall include:

1. (No change.)

2. The administration of standardized and/or non-standardized assessments and/or the observation of a client and the environment to identify areas of functional abilities or deficits. Areas, which may be assessed shall include the performance of activities of daily living, including recreation, leisure or work related skills, which are affected by sensory, motor, developmental, perceptual, cognitive and/or psycho-social abilities;

3.-6. (No change.)

7. The utilization of physical agent modalities, consistent with *N.J.A.C. 13:44K-5.4*, as an adjunct to, or in preparation for, purposeful activities to enhance occupational performance with which the licensee is familiar as a result of training and experience.

13:44K-5.2 Scope of practice of a licensed occupational therapy assistant

(a) The scope of practice of a licensed occupational therapy assistant, working under the supervision of a licensed occupational therapist as provided in *N.J.A.C. 13:44K-6.1*, shall include:

1. (No change.)

2. The administration of standardized and/or non-standardized assessments and/or the observation of a client and the environment to assist in the identification of functional abilities or deficits. Areas, which may be assessed shall include the performance of activities of daily living, including recreation, leisure or work related skills which are affected by sensory, motor, developmental, perceptual, cognitive and/or psycho-social abilities;

3.-6. (No change.)

7. The utilization of physical agent modalities, consistent with *N.J.A.C. 13:44K-5.4*, as an adjunct to, or in preparation for, purposeful activity to enhance occupational performance with which the licensee is familiar as a result of training and experience.

13:44K-5.3 Delegation of occupational therapy services

(a) A licensed occupational therapist may delegate selected occupational therapy services to licensed occupational therapy assistants, temporary licensed occupational therapists, temporary licensed occupational therapy assistants and to occupational therapy students fulfilling the required fieldwork component of their educational training, provided the services are within the scope of practice of the individual to whom they are delegated.

(b) (No change.)

(c) The licensed occupational therapist shall be responsible for the proper supervision of persons to whom delegation of occupational therapy services is made. Such supervision shall be close, routine or general supervision. The degree of supervision exercised over such persons shall be determined by the licensed occupational therapist consistent with the requirements set forth in *N.J.A.C. 13:44K-6.2* and based on an evaluation of:

1.-3. (No change.)

(d) (No change.)

13:44K-5.4 Use of physical agent modalities

(a) A licensed occupational therapist may use physical agent modalities as set forth in this section for the purpose of enhancing the functional performance of a client. For purposes of this section, "physical agent modalities" shall mean

those modalities that produce a biophysical response through the use of light, water, temperature, sound, electricity or mechanical devices.

(b) A licensed occupational therapist may use 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 and mechanical devices, such as vasopneumatic and continuous passive motion devices.

(c) A licensed occupational therapist shall demonstrate competency, as provided in (e) or (f) below, prior to using any of the following advanced physical agent modalities: diathermy; high-voltage galvanic stimulation; micro current *[galvanic]* stimulation; transcutaneous electrical nerve stimulation; neuromuscular *[electronic]* **electrical** stimulation; iontophoresis; therapeutic ultrasound; phonophoresis; and cold lasers.

(d) A provider of a training course in the use of advanced physical agent modalities may obtain Council approval of the course upon submission of documentation verifying that the course satisfies the requirements set forth in (e) below. Council approval for a training course shall be valid for one year. Resubmission of course documentation shall be required for renewal of course approval and whenever a provider changes the course content of an approved training course.

(e) A licensed occupational therapist may use advanced physical agent modalities if he or she has completed a Council-approved training course, which meets the following requirements:

1. The training course shall include at least 30 hours of didactic instruction. For purposes of this subsection, "didactic instruction" means live, in-person instruction and may include interactive telephonic or electronic instruction, but shall not include videotaped or audiotaped instruction. The training course shall include:

i. Four hours of training in the use of heat wave physical agent modalities;

ii. Sixteen hours of training in the use of electric wave physical agent modalities;

iii. Six hours of training in the use of sound wave physical agent modalities; and

[page=2026] iv. Four hours of training in the use of light wave physical agent modalities;

2. The training course shall include instruction in the following:

i. Principles of physics related to specific properties of light, water, temperature, sound or electricity, as indicated by each modality;

ii. Physiological, neurophysiological and electrophysiological changes, as indicated, which occur as a result of the application of each modality;

iii. The response of normal and abnormal tissue to the application of each modality;

iv. Indications or contraindications related to the selection and application of each modality;

v. Guidelines for educating clients, including instructing about the process and possible outcomes of treatment, including risks and benefits;

vi. Safety rules and precautions related to each modality;

vii. Methods of documenting the effectiveness of the immediate and long-term effects of treatment;

viii. Characteristics of the equipment, including safe operation, adjustment and care of the equipment; and

ix. Hands-on application of each modality by each course participant. Such instruction shall be provided in-person. Interactive telephonic or electronic instruction in the application of modalities shall not be permitted; and

3. The primary instructor of the course shall be a licensed occupational therapist, a licensed physical therapist, a licensed physical *[therapy]* ***therapist*** assistant or a licensed physician.

(f) A licensed occupational therapist may use advanced physical agent modalities if he or she holds a current certification from the Hand Therapy Certification Commission or any other national organization that utilizes substantially similar certification standards.

(g) A licensed occupational therapist shall retain documentation relating to his or her training in the use of advanced physical agent modalities pursuant to (e) or (f) above and shall make such documentation available to the Council upon request. The documentation shall include, if applicable:

1. The name and address of the person or organization presenting the program, workshop or seminar;
2. The name and address of the facility where the program, workshop or seminar was presented;
3. A copy of the program, workshop or seminar syllabus, which includes a detailed description of the learning objectives and teaching methods employed in the course and the qualifications of the instructor(s); and
4. A certificate of completion from the program, workshop or seminar sponsor.

(h) A licensed occupational therapist may apply to the Council for approval of a course in the use of advanced physical agent modalities that has not been pre-approved by the Council. The licensee shall submit the documentation set forth in (g) above to the Council for review.

(i) A licensed occupational therapist may delegate the application of the superficial thermal agent and mechanical device modalities set forth in (b) above to a licensed occupational therapy assistant consistent with the requirements of *N.J.A.C. 13:44K-5.3*. Delegation of the application of such modalities to anyone other than a licensed occupational therapy assistant shall be deemed professional misconduct and may subject a licensee to the penalties set forth in *N.J.S.A. 45:1-21 et seq.*

(j) A licensed occupational therapist shall not delegate the application of the advanced physical agent modalities set forth in (c) above. Delegation of advanced physical agent modalities shall be deemed professional misconduct and may subject a licensee to the penalties set forth in *N.J.S.A. 45:1-21 et seq.*

(k) A licensed occupational therapist who uses the advanced physical agent modalities set forth in (c) above without having satisfied the requirements set forth in (e) or (f) above shall be deemed to have engaged in professional misconduct and may be subject to the penalties set forth in *N.J.S.A. 45:1-21 et seq.*

(l) A licensed occupational therapist who uses the advanced physical agent modalities set forth in (c) above shall submit documentation verifying that he or she has obtained training in the use of advance physical agent modalities that is substantially similar to the requirements set forth in (e) above on or before **[(one year from the effective date of this section)]* **May 4, 2010****. After **[(12 months following the effective date of this section)]* **May 4, 2010****, a licensed occupational therapist shall meet the requirements set forth in (e) or (f) above in order to use advanced physical agent modalities.

(m) Notwithstanding the fact that a licensed occupational therapist is permitted to use advanced physical agent modalities because he or she has satisfied the training requirements of this section, a licensed occupational therapist shall not use a specific physical agent modality device that he or she has not been trained to use until he or she is familiar with the device's proper use and contraindications. Failure to comply with this section shall be deemed professional misconduct and may subject a licensed occupational therapist to the penalties set forth in *N.J.S.A. 45:1-21 et seq.*

SUBCHAPTER 6. SUPERVISION OF OCCUPATIONAL THERAPY ASSISTANTS

13:44K-6.1 Supervision requirement: occupational therapy assistant

(a) A licensed occupational therapy assistant shall provide occupational therapy services only under the supervision of a licensed occupational therapist pursuant to the provisions of this subchapter.

(b)-(c) (No change.)

13:44K-6.2 Responsibilities of designated supervisor

(a)-(c) (No change.)

(d) A designated supervisor shall be responsible for the close, routine or general supervision of an occupational therapy assistant.

(e) A designated supervisor shall determine the level of supervision required of each occupational therapy assistant consistent with the condition of the client, the education, skill and training of the occupational therapy assistant and the nature of the tasks and activities to be performed by the occupational therapy assistant; provided, however, that a designated supervisor shall provide close supervision for any occupational therapy assistant who has been engaged in the practice of occupational therapy for less than one year on a full-time basis.

(f) (No change.)

(g) Notwithstanding the provisions of (a) through (d) above, prior to supervising any person engaged in the practice of occupational therapy services, an occupational therapist shall have at least 1,200 hours of work experience obtained in no less than one year and in no more than three years of practice.

(h)-(j) (No change.)

13:44K-6.4 Delegation of supervision responsibilities

(a) A designated supervisor providing close supervision of an occupational therapy assistant, a temporary licensed occupational therapy assistant or an occupational therapy student, may delegate his or her supervisory responsibility for the daily, face-to-face contact with and frequent observation of the performance of the occupational therapy assistant, the temporary licensed occupational therapy assistant or the occupational therapy student, to an occupational therapy assistant who, in the professional judgment of the supervising occupational therapist, has been adequately prepared by verified training and education in the provision of occupational therapy services consistent with the requirements set forth at *N.J.A.C. 13:44K-2.1*.

(b)-(e) (No change.)

SUBCHAPTER 7. SUPERVISION OF TEMPORARY LICENSED OCCUPATIONAL THERAPIST AND TEMPORARY LICENSED OCCUPATIONAL THERAPY ASSISTANT

13:44K-7.1 Supervision requirement: temporary licensed occupational therapist and temporary licensed occupational therapy assistant

(a) A temporary licensed occupational therapist shall provide occupational therapy services only under the supervision of a licensed occupational therapist pursuant to the provisions of this subchapter.

(b)-(c) (No change.)

(d) In the event of a change of the supervising occupational therapist, the subsequent supervisor shall assume responsibility for the ongoing [page=2027] supervision of any temporary licensed occupational therapist(s) or temporary licensed occupational therapy assistant(s) providing care to the client and shall become the designated supervisor.

13:44K-7.2 Responsibilities of designated supervisor

(a)-(c) (No change.)

(d) Notwithstanding the provisions of (a) through (c) above, prior to supervising any person engaged in the practice of occupational therapy services, an occupational therapist shall have at least 1,200 hours of work experience obtained in no less than one year and in no more than three years of practice.

(e) A designated supervisor shall be responsible for the close supervision of a temporary licensed occupational therapist or temporary licensed occupational therapy assistant.

(f)-(g) (No change.)

SUBCHAPTER 8. GENERAL OBLIGATIONS OF LICENSEES

13:44K-8.1 Notification of change of address of record; service of process

(a) A licensee shall notify the Council, within 30 days, of any change in his or her address of record. For purposes of this section, "address of record" means an address designated by a licensee, which is part of the public record and which may be disclosed upon request. "Address of record" may be a licensee's home, business or mailing address, but shall not be a post office box unless the licensee also provides another address, which includes a street, city, state and zip code.

(b)-(c) (No change.)

13:44K-8.2 Notification of change of name

(a)-(c) (No change.)

13:44 K-8.3 Unlicensed practice of occupational therapy

(a) The following acts or practices shall be deemed to be the unlicensed practice of occupational therapy:

1. Offering or rendering occupational therapy services by any person other than a licensed occupational therapist, a licensed occupational therapy assistant or a person who is exempt from licensure under the Occupational Therapy Licensing Act, pursuant to *N.J.S.A. 45:9-37.60*. Persons exempt from licensure pursuant to *N.J.S.A. 45:9-37.60(e)* shall only engage in the provision of occupational therapy services consistent with the provisions of *N.J.A.C. 13:44K-1.3*;

2. (No change.)

(b) (No change.)

13:44K-8.4 Aiding and abetting unlicensed practice

It shall be professional misconduct for a licensee to aid or assist any person engaging in conduct that violates *N.J.A.C. 13:44K-8.3* and shall constitute a deviation from the normal standards of practice required of a licensee, which may subject the licensee to the penalties of *N.J.S.A. 45:1-21*.

13:44K-8.5 Sexual misconduct

(a) As used in this section, the following terms have the following meanings unless the context clearly indicates otherwise:

...

"Licensee" means any person licensed to engage in practice as an occupational therapist, occupational therapy assistant or temporarily licensed occupational therapist or occupational therapy assistant in the State of New Jersey.

...

"Spouse" means the husband, wife, civil union partner or fiancée of the licensee or an individual involved in a long-term committed relationship with the licensee. For purposes of the definition of "spouse," a long-term committed relationship means a relationship, which is at least six months in duration.

(b) A licensee shall not engage in sexual contact with a client with whom he or she has a client-therapist relationship. The client-therapist relationship is ongoing for purposes of this section, unless:

1. Occupational therapy is terminated by way of written notice to the client and is documented in the client record; and
2. The last occupational therapy was rendered more than six months ago.

(c)-(k) (No change.)

13:44K-8.6 Biennial license renewal; inactive status; license suspension

(a) Licenses issued by the Council to occupational therapists and occupational therapy assistants shall be issued for a two-year biennial period. A licensee who seeks license renewal shall submit a renewal application and the renewal fee set forth in *N.J.A.C. 13:44K-11.1* prior to the expiration date of the license.

(b) The Council shall send a notice of renewal to each licensee at the address of record with the Council at least 60 days prior to the expiration of the license. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew during the period following licensure expiration, not to exceed the number of days short of 60 before the renewals were issued.

(c) License renewal applications shall provide licensees with the option of either active or inactive status. A licensee electing inactive status shall not engage in the provision of occupational therapy services in New Jersey during the period of inactive status.

(d) If a licensee does not renew the license prior to its expiration date, the licensee may renew the license within 30 days of its expiration by submitting a renewal application and the renewal fee and late fee set forth in *N.J.A.C. 13:44K-11.1*. During this 30-day period, the license shall be valid, and the licensee shall not be deemed to be practicing without a license.

(e) A license that is not renewed within 30 days of its expiration shall be automatically suspended. An individual who continues to practice with a suspended license shall be deemed to be engaged in unlicensed practice.

13:44K-8.7 Inactive status: change of licensure status

(a) A licensee who has been inactive for a period of less than five years may, upon application to the Council, change from inactive to active status upon submission of the following:

1. A completed renewal application;
2. The renewal fee for the current biennial period set forth in *N.J.A.C. 13:44K-11.1*; and
3. An affidavit of employment listing each job held during the period the licensee was inactive, including the name, address and telephone number of each employer.

(b) A licensee who has been inactive for a period of five years or more may, upon application to the Council, change from inactive to active status upon submission of the following:

1. A completed renewal application;
2. The renewal fee for the current biennial period set forth in *N.J.A.C. 13:44K-11.1*;
3. An affidavit of employment listing each job held during the period the licensee was inactive, including the name, address and telephone number of each employer; and
4. Evidence that the licensee has maintained competency by either having completed course work in occupational therapy during the period of time he or she was inactive, or having been continuously and actively engaged in the licensed practice of occupational therapy in another jurisdiction. A licensee who fails to demonstrate that he or she has maintained competency while on inactive status may be subject to an examination or other requirements as determined by the Council prior to being permitted to return to active practice.

13:44K-8.8 Reinstatement of suspended license

(a) An individual whose license has been automatically suspended for less than five years for failure to renew pursuant to *N.J.A.C. 13:44K-8.6* may be reinstated by the Council upon submission of the following:

1. A completed reinstatement application;
2. Payment of the reinstatement fee and the current biennial renewal fee set forth in *N.J.A.C. 13:44K-11.1*. If the applicant engaged in the practice of occupational therapy in New Jersey during the period of license suspension, the applicant shall also submit payment of all past delinquent biennial renewal fees;
- [page=2028] 3. An affidavit of employment listing each job held during the period the licensee was inactive, including the name, address and telephone number of each employer;
4. Any outstanding penalties imposed by the Council; and
5. Evidence that the licensee has maintained competency by either having completed course work in occupational therapy during the period of time he or she was suspended or having been continuously and actively engaged in the licensed practice of occupational therapy in another jurisdiction. An applicant who fails to demonstrate that he or she has maintained competency during the period of license suspension may be subject to an examination or other requirements as determined by the Council prior to being permitted to return to practice.

(b) An individual whose license has been automatically suspended for five years or more for failure to renew pursuant to *N.J.A.C. 13:44K-8.6* may be reinstated by the Council upon successful completion of the licensing examination required for initial licensure as set forth in *N.J.A.C. 13:44K-3.1* or *3.2*, as applicable, and upon submission of the following:

1. A completed reinstatement application;
2. Payment of the reinstatement fee and appropriate biennial renewal fees;
3. An affidavit of employment listing each job held during the period the licensee was inactive, including the name, address and telephone number of each employer; and
4. Any outstanding penalties imposed by the Council.

13:44K-8.9 Insurance forms

(a) No licensee shall submit any claim, bill or governmental assistance claim to a third-party payor for occupational therapy services rendered to any client that involves dishonesty, fraud, deception or misrepresentation.

(b) No licensee shall submit to a third-party payor any claim, bill or governmental assistance claim, which contains any of the following:

1. Any treatment date, which does not accurately reflect the date when the services were actually provided;
2. Any description of an occupational therapy service, which does not accurately reflect the actual service provided;
3. Any statement material to the claim, which is known to be false or misleading; or
4. A charge for any service the amount of which has been advertised as free or complimentary or for an amount that exceeds the advertised charge for discounted services.

(c) A licensee who provides occupational therapy services to a client enrolled in any insurance plan with co-payment features and who intends to waive any part of the co-payment or all of the co-payment by the client shall, when submitting any claim or bill to the third-party payor, conspicuously disclose on the face of the claim or bill in a legible manner, or in the electronic claim submission, that the co-payment, or a portion of the co-payment, has not or will not be billed to, or collected from, the client.

(d) The accuracy of all information contained in written or electronic submissions to a third-party payor, including predeterminations, claims, bills or governmental assistance claims, shall be the personal responsibility of the licensee whose name, license number or signature appears on the signature line of the claim. In the case of electronic claims the licensee identified as the provider shall be held responsible for the accuracy of the information whether or not said licensee actually completed the claim. The Council shall presume that the licensee identified on the claim reviewed its contents and approved its submission. It shall not be a defense to an allegation of a violation of this section that the claim was completed or submitted by an agent of the licensee.

(e) All insurance records shall be maintained pursuant to the provisions of N.J.A.C. 13:44K-10.

SUBCHAPTER 9. BUSINESS PRACTICES; PROFESSIONAL CONDUCT

13:44K-9.1 Display of notice of licensure; duplicate license; notification of availability of fee information

(a) All licensed occupational therapists and occupational therapy assistants shall show their licenses to clients upon request.

(b)-(c) (No change.)

(d) A licensee may obtain a duplicate license upon payment of the fee provided in *N.J.A.C. 13:44K-11.1(a)12* or 13 and upon submission of a certification by the licensee that the original license was lost or destroyed or that a duplicate license is required by the licensee's employer.

13:44 K-9.2 Financial arrangements with clients and third-party payors

(a)-(c) (No change.)

(d) An occupational therapist shall prepare and maintain a written list of current fees for standard services and, upon request, shall provide the list to clients. The list shall include the following information:

1.-2. (No change.)

3. Whether other third-party payor plans are accepted; and

4. (No change in text.)

(e) (No change.)

SUBCHAPTER 10. CLIENT RECORDS

13:44K-10.1 Preparation and maintenance of client records

(a) (No change.)

(b) An occupational therapist, or an occupational therapy assistant, acting under the supervision of an occupational therapist, shall include at least the following information in the client record:

1.-5. (No change.)

6. Progress notes for each day of treatment. Progress notes shall include, at a minimum, the date the client received treatment, a description of the treatment rendered, the name of the licensee or other person rendering treatment, and notations of the client's status regardless of whether significant changes have occurred since the last date of treatment.

i. An occupational therapist may dictate progress or session notes for later transcription provided the transcription is dated and identified as preliminary pending the occupational therapist's final review and approval.

ii. All progress notes that are created by a licensed occupational therapy assistant, temporary licensed occupational therapist, temporary licensed occupational therapy assistant or an occupational therapy student fulfilling the required fieldwork component of his or her educational training, consistent with the provisions of *N.J.A.C. 13:44K-5.3*, shall be countersigned by the supervising occupational therapist, notwithstanding the delegation of supervision responsibilities to a licensed occupational therapy assistant pursuant to *N.J.A.C. 13:44K-6.4*.

iii. If more than one progress note appears on a page, one signature on the page shall be sufficient to indicate review and approval of all progress notes on the page;

7.-10. (No change.)

(c) (No change.)

(d) The permanent client record of occupational therapy services shall be retained for at least seven years from the date of the last entry, unless otherwise provided by law, or in the case of a client who is a minor at the time of the last date of treatment, the licensee shall retain the record for seven years from the last treatment or for at least two years after the minor client reaches the age of 18, whichever is later.

(e) (No change.)