

**51 N.J.R. 769 (b)**

VOLUME 51, ISSUE 10, MAY 20, 2019

**RULE ADOPTIONS**

**Reporter**

51 N.J.R. 769 (b)

*NJ - New Jersey Register > 2019 > MAY > MAY 20, 2019 > RULE ADOPTIONS  
> LAW AND PUBLIC SAFETY -- DIVISION OF CONSUMER AFFAIRS*

**Agency**

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LAW AND PUBLIC SAFETY > DIVISION OF CONSUMER AFFAIRS > OCCUPATIONAL  
THERAPY ADVISORY COUNCIL

**Administrative Code Citation**

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**Adopted Amendments:** N.J.A.C. 13:44K-2.1, 3.1, 3.2, 4.1, 4.2, 5.3, 5.4,  
5.5, 6.1, 6.2, 8.1, 8.5, 8.9, 9.2, 10.1, 10.3, and 11.1

**Adopted New Rules:** N.J.A.C. 13:44K-2.2, 2.3, 3.3, 6.4, and 6.5

**Adopted Repeals and New Rules:** N.J.A.C. 13:44K-6.3, 8.6, 8.7, and 8.8

**Adopted Repeals:** N.J.A.C. 13:44K-7

**Text**

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**Rules of the Occupational Therapy Advisory Council**

Proposed: May 7, 2018, at 50 N.J.R. 1194(a).

Adopted: March 25, 2019, by Paul R. Rodriguez, Acting Director,  
Division of Consumer Affairs.

Filed: April 12, 2019, as R.2019 d.038, **with non-substantial 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.; and P.L. 2013, c. 49.

Effective Date: May 20, 2019.

Expiration Date: February 22, 2023.

**Summary** of Public Comments and Agency Responses:

The official comment period ended on July 6, 2018. The Director of the Division of Consumer Affairs (Division) and the Occupational Therapy Advisory Council (Council) received comments from:

1. George Mwangi;
2. Shaun Conway, Senior Director, External & Regulatory Affairs, National Board for Certification in Occupational Therapy, Inc. (NBCOT);
3. Stephanie Franklin-Cosgrove, OTR, CHT, Legislation Co-Chair, and Miriam Manela, OTR, Legislation Co-Chair, New Jersey Occupational Therapy Association (NJOTA);
4. Kristen Neville, Manager, State Affairs, The American Occupational Therapy Association, Inc. (AOTA); and
5. Carolyn Merkt, Rutgers University School of Health Professions, Occupational Therapy Assistant Class of 2019.

1. COMMENT: Two commenters expressed support for the Council's proposed Jurisprudence Orientation requirement for initial licensure. The commenters stated that it is the ethical responsibility of every occupational therapist and occupational therapy assistant, aide, and student to educate himself or herself of the laws and regulations in the State and to follow them. The commenters believe that this proposed requirement is in the best interest of the profession and of the public who are consumers of occupational therapy services.

RESPONSE: The Director thanks the commenters for their support.

2. COMMENT: Two commenters expressed support for the Council's new proposed licensure by reciprocity process, which will allow an occupational therapist or occupational therapy assistant licensed in another state to become licensed in New Jersey, provided certain qualifications are met. The commenters noted that this is a process that occupational licensure boards across the country are implementing as a result of the increasing number of licensees who travel across state lines to provide services as licensure boards across the country are being encouraged to ensure that licensure does not create a barrier to employment. The commenters believe that the process laid out in the rules is fair and will ensure that qualified occupational therapists

and occupational therapy assistants will be able to work in New Jersey and provide high-quality services.

RESPONSE: The Director thanks the commenters for their support.

3. COMMENT: Two commenters noted that NJOTA, along with AOTA, supports a pathway to licensure for foreign-trained applicants. The commenters stated that AOTA has worked with other state licensure boards around the country to put in place a statutory process for foreign-trained applicants. The commenters noted that NBCOT does not determine whether a foreign-trained applicant's credentials are equivalent to those for individuals educated in the United States. The commenters further noted that, according to NBCOT's website, NBCOT determines whether an applicant's qualifications are comparable to current U.S. entry-level educational standards.

RESPONSE: The Director thanks the commenters for their support. The Director notes that N.J.S.A. 45:9-37.69 provides that prior to taking the examination, a foreign-trained occupational therapist or occupational therapy assistant must complete educational and supervised fieldwork requirements substantially equivalent to those of the State. In accordance with this statutory provision, the Council previously decided that a determination by NBCOT that an applicant was permitted to sit for the examination satisfied this substantial equivalence requirement. To codify the Council's existing practice and to be consistent with the Council's prior determination, proposed N.J.A.C. 13:44K-2.1(c) and 3.1(a)liii specify that to demonstrate substantial equivalence to the education requirements, the Director will accept a letter from NBCOT verifying that NBCOT has assessed the applicant's academic credentials and permitted the applicant to sit for the examination.

4. COMMENT: One commenter opposed proposed new N.J.A.C. 13:44K-2.2 and 2.3, which would permit an applicant for an occupational therapist or occupational therapy assistance license who has been honorably discharged from the Armed Forces of the United States (Armed Forces) and who does not meet all of the training, education, and experience requirements for licensure to apply to the Council for recognition of the applicant's training, education, and experience received while serving as a member of the Armed Forces. The commenter stated [page=770] that, if approved, the proposed regulations would be in direct conflict with the current eligibility standards to apply for and take the certification examination developed and administered by NBCOT.

5. COMMENT: Two commenters expressed support for the Council's efforts to provide a pathway for veterans to obtain a license, provided that the process for demonstrating that the veteran's education, experience,

and training is substantially equivalent to the requirements for non-veteran applicants and does not conflict with current requirements for non-veteran applicants. The commenters, however, expressed concern about the process by which a veteran of the U.S. military would become licensed by demonstrating that their education gained in the military is equivalent to what is required for non-veterans. The commenters stated that, according to proposed N.J.A.C. 13:44K-2.2(b)3, a veteran who demonstrates that his or her education, experience, and training gained in the military is substantially equivalent to the current requirements for licensure must also comply with all other requirements for licensure, including successfully passing the certification examination administered by NBCOT, as set forth in N.J.A.C. 13:44K-2.1(a). The commenters noted that NBCOT requires graduation from an Accreditation Council for Occupational Therapy Education (ACOTE)-accredited program in order to be deemed eligible to sit for the certification examination. The commenters expressed concern with respect to how an individual who has not graduated from an ACOTE-accredited program, but whose education has been deemed substantially equivalent, is determined to be eligible to sit for the NBCOT examination. The commenters noted that the Council stated that it has no authority to require NBCOT, which is a private entity, to determine that veterans applying for licensure under this new process are eligible to sit for the certification examination.

RESPONSE TO COMMENTS 4 AND 5: The Director thanks the commenters for their support of the Council's efforts to provide a pathway for veterans to obtain a license. Proposed new N.J.A.C. 13:44K-2.2 and 2.3 implement New Jersey State law, N.J.S.A. 45:1-15.3, which mandates the Council to give an applicant for licensure credit towards its requirements for licensure for any portion of the training, education, and experience the applicant received while serving as a member of the Armed Forces that is substantially equivalent to the training, education, or experience required for licensure. In accordance with N.J.A.C. 13:44K-2.1, applicants for an occupational therapist or occupational therapy assistant license must successfully pass the certification examination administered by NBCOT. As stated in the Summary of the proposal, NBCOT is not subject to N.J.S.A. 45:1-15.3 and the Council does not have any jurisdiction over NBCOT; therefore, NBCOT cannot be required to credit substantially equivalent education, training, and experience received while in the military towards NBCOT's eligibility requirements to sit for its examination. The Council, however, believes it would be beneficial to confer with NBCOT about the possibility of creating a process similar to that used for foreign-trained applicants to review and compare the education, experience, and training received by servicemembers while serving in the United States Armed Forces.

6. COMMENT: One commenter recommended amending N.J.A.C. 13:44K-6.2 to limit to two the number of occupational therapy students who are supervised by a licensed occupational therapist. In addition, the commenter recommended reducing to two the total number of individuals that a licensed occupational therapist may supervise at any one time. The commenter believes that, in general practice, the supervision of students has been abused by institutions and the beneficiary is not the student but the institution. The commenter raised concerns for being responsible for up to seven therapists and believes that it is not safe and practically impossible to monitor the type of care given to patients. The commenter also believes that reviewing documentation for seven staff in any given eight-hour day is not possible.

RESPONSE: The Director declines to change N.J.A.C. 13:44K-6.2 upon adoption with respect to the long-standing standard as to the number of individuals that can be supervised at any one time. The Director notes that occupational therapists who supervise must exercise professional judgment to determine their own capacity to provide the appropriate level of supervision. In addition, the Director notes that the Council has not been made aware of any negative outcomes that would necessitate a change to the existing rule requirements.

7. COMMENT: Two commenters recommended striking the current requirement at N.J.A.C. 13:44K-6.3(b), which is being retained at proposed N.J.A.C. 13:44K-5.5(e)2i, to require that a designated supervisor provide close supervision for any occupational therapy assistant who has practiced occupational therapy for less than one year on a full-time basis.

The commenters stated that the existing definition of "close supervision," which 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, is burdensome both for the occupational therapist and the occupational therapy assistant and detracts from the occupational therapist's ability to provide services to his or her own clients and also makes supervision of occupational therapy assistants in rural areas more challenging. The commenters believe that the additional unintended consequences of this rule may be barriers to employment, increased costs to provide care, and reduced ability of consumers to access needed occupational therapy services. The commenters also noted that current ACOTE standard C.1.16 allows for a lower degree of supervision for occupational therapy assistant students completing their Level II fieldwork. The commenter stated that the ACOTE standard provides "initially, supervision should be direct and then decrease to less direct supervision as appropriate for the setting, the severity of the client's condition, and the ability of the student." The commenters believe that this, combined with the Council's current requirement, sets up a situation where the licensed

occupational therapy assistant is more closely supervised for one full year than he or she was at the end of the Level II fieldwork placement.

The commenters also cited AOTA's Guidelines for Supervision, Roles, and Responsibilities During the Delivery of Occupational Therapy Services (2014), which states supervision is an ongoing, collaborative process between the occupational therapist and the occupational therapy assistant. The commenters further stated that it is the responsibility of the occupational therapist to provide the appropriate level of supervision to the occupational therapy assistant, based on several varying factors: complexity of client needs, number and diversity of clients, knowledge and skill level of the occupational therapist and the occupational therapy assistant, type of practice setting, requirements of the practice setting, and other regulatory requirements.

The commenters also stated that supervision may also be more frequent than the minimum required in the Council's regulations because the: needs of the client and the occupational therapy process are complex and changing, practice setting provides occupational therapy services to a large number of clients with diverse needs, or occupational therapist and occupational therapy assistant determine that additional supervision is necessary to ensure safe and effective delivery of occupational therapy services.

The commenters, therefore, believe that it cannot be assumed that all occupational therapy assistants require close supervision, as defined in the current rule. The commenters further believes that some occupational therapy assistants may require daily, face-to-face supervision, and others may not. The commenters also stated that, in some instances, the timeframe deemed necessary by the occupational therapist and occupational therapy assistant during the supervisory process may vary significantly from the rule's requirement. The commenters believe that it is the responsibility of both the occupational therapist and occupational therapy assistant to reach a supervisory arrangement that ensures the safe provision of occupational therapy services to clients, but ultimately the responsibility for supervision falls on the occupational therapist as the designated supervisor.

RESPONSE: The Director declines, as the commenters suggested, to remove the existing requirement at N.J.A.C. 13:44K-6.3(b), which is being retained at proposed N.J.A.C. 13:44K-5.5(e)2i, to require that a designated supervisor provide close supervision for any occupational therapy assistant who has practiced occupational therapy for less than one year on a full-time basis. The Director disagrees that the requirement is overly burdensome and believes that requiring close

supervision of an occupational therapy assistant for the first year of practice is necessary to ensure the protection of occupational therapy clients. In addition, the requirement of close supervision benefits the occupational therapy assistant by ensuring that those initially working under supervision have [page=771] access to a supervisor who is observing them in a particular workplace setting, which may differ from that of the field work experience.

8. COMMENT: One commenter expressed concerns with proposed new N.J.A.C. 13:44K-6.3. The commenter stated that there is no reason that a recent occupational therapy practitioner graduate cannot supervise occupational therapy assistants. The commenter believes that such a graduate has gained the appropriate amount of minimum schooling and is more than capable of fulfilling the duties of a supervisor to another student who is trying to fulfill clinical requirements at his or her program. The commenter also questioned why the Council was changing the requirement to 1,200 hours of practice and noted that if the supervisor were not prepared, he or she would not offer to supervise. The commenter also questioned why the Council proposed to change to close supervision of occupational therapy assistants for at minimum one year and asked what changed that required additional supervision if it is at the discretion of the occupational therapy practitioner who is the supervisor. The commenter further asked whether the supervisor now has enough experience to closely supervise a student/recent graduate from occupational therapy school that the supervisor can discern when it is okay to supervise closely and not as closely. The commenter believes that it should be at the discretion of the practitioner who is onsite working with the student on a case-by-case basis, and not an executive board who is not working hands-on with the student.

RESPONSE: The Director believes that the commenter's comments refer to the existing requirement of N.J.A.C. 13:44K-6.2(g), which was proposed for recodification at N.J.A.C. 13:44K-6.2(a), that a licensed occupational therapist has at least 1,200 hours of work experience obtained in no less than one year and within three consecutive years of practice. The Director believes that, to protect the client safety and welfare, an occupational therapist must have at least one year of experience to mentor supervisees. In addition, the Director believes that establishing a number of hours of work experience provides a measurable objective standard for determining when an occupational therapist may begin to supervise others in the profession.

In addition, the Director notes that, in accordance with the existing and proposed recodified rules, the designated supervisor determines the level of supervision (close, routine, or general) required for each occupational therapy assistant. However, when the occupational therapy assistant has practiced for less than one year on a full-time basis,

the designated supervisor must provide close supervision. The Director determined that one year on a full-time basis means 1,200 hours of practice. The Director believes that providing this definition provides a clear and reasonable standard for all designated supervisors to use.

**Summary of Agency-Initiated Changes:**

Upon adoption, to correct an administrative oversight, the Director is changing N.J.A.C. 13:44K-2.1(a)5 and (b)5, and 2.2(b)3 to change "or its predecessors" to include "and/or its successors," when referencing the entity administering the certification examination.

**Federal Standards Statement**

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

**Regulations**

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**Full text** of the adopted amendments and new rules follows (additions to proposal indicated in boldface with asterisks **\*thus\***):

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. Except as provided in (d) below, have successfully completed:

i. A master's degree or its equivalent in occupational therapy from an accredited college or university approved by the Commission on Higher Education or its successor; or

ii. A master'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 (ACOTE) of the American Occupational Therapy Association, the World Federation of Occupational Therapy (WFOT), or other nationally recognized programmatic accrediting agency;

4. Have successfully completed at least 24 weeks of supervised fieldwork experience approved by the educational institution at which the applicant completed the occupational therapy education program in accordance with (a)3i and ii above, or, if applicable, (d) below; and

5. Have successfully passed the certification examination administered by the National Board for Certification in Occupational Therapy (NBCOT), or its predecessors **\*and/or its successors\***.

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

1.-4. (No change.)

5. Have successfully passed the certification examination administered by the National Board for Certification in Occupational Therapy (NBCOT), or its predecessors **\*and/or its successors\***.

(c) A foreign-trained applicant who did not attend an education program that was accredited by ACOTE or WFOT at the time of the applicant's graduation may be eligible for licensure if the applicant can demonstrate that he or she has completed educational and fieldwork requirements substantially equivalent to those in this State. An applicant shall complete all other requirements required for licensure as set forth in N.J.A.C. 13:44K-3.1 or 3.2, as applicable.

1. To demonstrate substantial equivalence to the education requirements, a foreign-trained applicant shall provide the Council with a letter from the National Board of Certification in Occupational Therapy (NBCOT) verifying that it has assessed the applicant's academic credentials and permitted the applicant to sit for the examination. An applicant may request from NBCOT a credential evaluation letter at <http://www.nbcot.org>.

2. The Council shall consider the NBCOT credential evaluation letter along with the applicant's transcripts and proof of fieldwork experience.

(d) The master's degree requirement for licensure as an occupational therapist shall not apply to an applicant who:

1. Prior to January 1, 2007, has successfully completed:

i. A bachelor's degree or its equivalent in occupational therapy from an accredited college or university approved by the Commission on Higher Education or its successor; or

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 has 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;

2. Prior to January 1, 2007, has satisfied the fieldwork experience required in (a)4 above and successfully passed the certification examination for occupational therapists; and

3. The applicant has met all other requirements for licensure.

13:44K-2.2 Credit towards licensure as an occupational therapist for education, training, and experience received while serving as a member of the Armed Forces

(a) An applicant who has served in the Armed Forces of the United States (Armed Forces) and who does not meet all of the training, education, and experience requirements for licensure as an occupational therapist under N.J.A.C. 13:44K-2.1(a) may apply to the Council for recognition of the applicant's training, education, and/or experience received while serving as a member of the Armed Forces, which the Council shall consider together with any training, education, and/or experience obtained outside of the Armed Forces, for determining substantial equivalence to the training, education, and experience required for licensure.

[page=772] (b) The Council shall issue a license as an occupational therapist to the applicant if the applicant presents evidence to the Council that:

1. The applicant has been honorably discharged from active military service;

2. The relevant training, experience, and education the applicant has received in the military, together with any training, education, and experience obtained outside of the Armed Forces is substantially equivalent in scope and character to the training, experience, and education required for licensure as an occupational therapist under N.J.A.C. 13:44K-2.1(a).

i. An applicant seeking credit for military training and experience shall submit to the Council the applicant's Verification of Military Experience and Training (VMET) Document, DD Form 2586, or a successor form, as amended and supplemented.

ii. An applicant seeking credit for education courses and/or training completed while in the military who does not hold a master's degree or

its equivalent in occupational therapy from an accredited college or university approved by the Commission on Higher Education or its successor shall submit to the Council a Joint Services Transcript of his or her education/training received in the military for a determination that the education courses completed are substantially equivalent in level, scope, and intent to the educational requirements set forth in N.J.A.C. 13:44K-2.1(a). For the purpose of determining substantial equivalence of the applicant's military education and/or training, the Council shall consider only those courses relevant to the practice of occupational therapy that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula.

iii. An applicant seeking credit for education courses completed while in the military who does not hold a master'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 or who has not 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 shall submit to the Council a Joint Services Transcript of his or her education/training received in the military for a determination that the education courses completed are substantially equivalent in level, scope, and intent to the educational requirements set forth in N.J.A.C. 13:44K-2.1(a). For the purpose of determining substantial equivalence of the applicant's military education or training, the Council shall consider only those courses relevant to the practice of occupational therapy that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula; and

3. The applicant complies with all other requirements for licensure, including successfully passing the certification examination administered by the National Board for Certification in Occupational Therapy (NBCOT), or its predecessors **\*and/or its successors\***, as set forth in N.J.A.C. 13:44K-2.1(a).

(c) It is the applicant's responsibility to provide timely and complete evidence of the education, training, and/or service gained in the military for review and consideration.

(d) If the applicant's military training, education, or experience, or a portion thereof, is not deemed to be substantially equivalent to that required for licensure as an occupational therapist, the Director and Council shall credit whatever portion of the military training,

education, or experience that is substantially equivalent towards meeting the requirements under N.J.A.C. 13:44K-2.1(a) for the issuance of the license as an occupational therapist.

(e) Satisfactory evidence of such education, training, or experience shall be assessed on a case-by-case basis.

13:44K-2.3 Credit towards licensure as an occupational therapy assistant for education, training, and experience received while serving as a member of the Armed Forces

(a) An applicant who has served in the Armed Forces of the United States (Armed Forces) and who does not meet all of the training, education, and experience requirements for licensure as an occupational therapy assistant under N.J.A.C. 13:44K-2.1(b) may apply to the Council for recognition of the applicant's training, education, and/or experience received while serving as a member of the Armed Forces, which the Council shall consider together with any training, education, and/or experience obtained outside of the Armed Forces, for determining substantial equivalence to the training, education, and experience required for licensure.

(b) The Council shall issue a license to the applicant if the applicant presents evidence to the Council that:

1. The applicant has been honorably discharged from active military service;

2. The relevant training, experience, and education the applicant has received in the military, together with any training, education, and experience obtained outside of the Armed Forces is substantially equivalent in scope and character to the training, experience, and education required for licensure as an occupational therapy assistant under N.J.A.C. 13:44K-2.1(b).

i. An applicant seeking credit for military training and experience shall submit to the Council the applicant's Verification of Military Experience and Training (VMET) Document, DD Form 2586, or a successor form, as amended and supplemented.

ii. An applicant seeking credit for education courses completed while in the military and outside of the military who does not hold an associate's degree or its equivalent in occupational therapy from an accredited college or university approved by the Commission on Higher Education or its successor shall submit to the Council a transcript of his or her education for a determination that the education courses completed are substantially equivalent in level, scope, and intent to the educational background under N.J.A.C. 13:44K-2.1(b). For the

purpose of determining substantial equivalence of the applicant's military education or training, the Council shall consider only those courses relevant to the practice of occupational therapy that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula.

iii. An applicant seeking credit for education courses completed while in the military and outside of the military who does not hold 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 or who has not 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 shall submit to the Council a Joint Services Transcript of his or her education/training received in the military for a determination that the education courses completed are substantially equivalent in level, scope, and intent to the educational requirements set forth in N.J.A.C. 13:44K-2.1(b). For the purpose of determining substantial equivalence of the applicant's military education or training, the Council shall consider only those courses relevant to the practice of occupational therapy that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula; and

3. The applicant complies with all other requirements for licensure, including successfully passing the certification examination administered by the National Board for Certification in Occupational Therapy (NBCOT), or its predecessors, as set forth in N.J.A.C. 13:44K-2.1(b).

(c) It is the applicant's responsibility to provide timely and complete evidence of the education, training, and/or service gained in the military for review and consideration.

(d) If the applicant's military training, education, or experience, or a portion thereof, is not deemed to be substantially equivalent to that required for licensure as an occupational therapy assistant, the Council shall credit whatever portion of the military training, education, or experience that is substantially equivalent towards meeting the requirements of N.J.A.C. 13:44K-2.1(b) for the issuance of the license as an occupational therapy assistant.

(e) Satisfactory evidence of such education, training, or experience shall be assessed on a case-by-case basis.

[page=773] 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. Documentation of the applicant's education, including official transcripts, which indicate that the applicant received a master's degree or its equivalent in occupational therapy from an accredited college or university approved by the Commission on Higher Education or its successor, which shall be forwarded to the Council directly by the college or university. If the applicant has completed all academic and administrative requirements necessary for the degree, but has not had the degree conferred by the university or college, the applicant may apply for a temporary license pursuant to N.J.A.C. 13:44K-4.1(b);

ii. If the applicant has received a master'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 (ACOTE), the World Federation of Occupational Therapy (WFOT), 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. If the applicant is a foreign-trained applicant who did not attend an education program that was accredited by ACOTE or WFOT at the time of the applicant's graduation, documentation demonstrating that he or she has completed educational and fieldwork requirements substantially equivalent to those in this State. To demonstrate substantial equivalence to the education requirements, a foreign-trained applicant shall provide the Council with a letter from the National Board of Certification in Occupational Therapy (NBCOT) verifying that it has assessed the applicant's academic credentials and permitted the applicant to sit for the certification examination for occupational therapist or occupational therapy assistants, as applicable. An

applicant may request from NBCOT a credential evaluation letter at <http://www.nbcot.org>.

iv. For applicants who, prior to January 1, 2007, successfully completed a bachelor's degree or its equivalent, documentation of the applicant's education, including official transcripts, which indicate that the applicant received:

(1) A bachelor's degree or its equivalent in occupational therapy from an accredited college or university approved by the Commission on Higher Education or its successor; or

(2) 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;

v. Documentation that the applicant has successfully completed at least 24 weeks of supervised field-work 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)li or ii, or, if applicable, iv 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;

vi. For applicants who have taken the certification examination prior to January 1, 2003, a "Verification of Certification" letter from the National Board for Certification in Occupational Therapy (NBCOT) indicating that the candidate has successfully passed the certification examination for occupational therapists;

vii. For applicants who have taken the certification examination on or after January 1, 2003, a score transfer from NBCOT indicating that the candidate has successfully passed the certification examination for occupational therapists;

viii. An applicant for initial licensure shall submit evidence of good moral character, as set forth in (b) below, which shall be an ongoing requirement for licensure;

Recodify existing vii.-viii. as ix.-x. (No change in text.)

2.-4. (No change.)

(b) In determining whether the applicant shall be licensed in the State, the Council shall consider evidence, whether the applicant:

1. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice occupational therapy with reasonable skill and safety. For purposes of this section, the term "presently" means at the time of application or any time within the 365 days prior to the time of application;
2. Has been convicted of violating any law of this State or any other state of the United States relating to controlled dangerous substances or other habit-forming drugs;
3. Has been convicted of violating any law relating to the practice of occupational therapy consistent with N.J.S.A. 45:1-21(f);
4. Has been convicted of a crime involving moral turpitude; and/or
5. Has had disciplinary action taken against his or her license by any licensing board.

(c) An applicant shall complete the New Jersey Jurisprudence Orientation.

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:

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

i.-ii. (No change.)

iii. If the applicant is a foreign-trained applicant who did not attend an education program that was accredited by the Accreditation Council for Occupational Therapy Education (ACOTE) or the World Federation of Occupational Therapy (WFOT) at the time of the applicant's graduation, documentation demonstrating that he or she has completed educational and fieldwork requirements substantially equivalent to those in this State. To demonstrate substantial equivalence to the education requirements, a foreign-trained applicant shall provide the Council with a letter from the National Board of Certification in Occupational Therapy (NBCOT) verifying that it has assessed the applicant's academic credentials and permitted the applicant to sit for the examination. An applicant may request from NBCOT a credential evaluation letter at <http://www.nbcot.org>.

iv. (No change in text.)

v. For applicants who have taken the certification examination prior to January 1, 2003, a "Verification of Certification" letter from the NBCOT indicating that the applicant has successfully passed the certification examination for occupational therapy assistants;

vi. For applicants who have taken the certification examination on or after January 1, 2003, a score transfer from NBCOT indicating that the candidate has successfully passed the certification examination for occupational therapy assistants;

vii. An applicant for initial licensure shall submit evidence of good moral character, as set forth in (b) below, which shall be an ongoing requirement for licensure;

Recodify existing vii.-viii. as viii.-ix. (No change in text.)

2.-4. (No change.)

(b) In determining whether the applicant shall be licensed in the State, the Council shall consider evidence, which demonstrates that the applicant:

1. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice occupational therapy with reasonable skill and safety. For purposes of this section, the term "presently" means at the time of application or any time within the 365 days prior to the time of application;

[page=774] 2. Has been convicted of violating any law of this State or any other state of the United States relating to controlled dangerous substances or other habit-forming drugs;

3. Has been convicted of violating any law relating to the practice of occupational therapy consistent with N.J.S.A. 45:1-21(f);

4. Has been convicted of a crime involving moral turpitude; and/or

5. Has had disciplinary action taken against his or her license by any licensing board.

(c) An applicant shall complete the New Jersey Jurisprudence Orientation.

### 13:44K-3.3 Licensure by reciprocity

(a) Upon receipt of a completed application, application fee, consent to a criminal history record background check, and requisite fee for such a check, the Council shall issue a license as an occupational therapist or occupational therapy assistant, as applicable, to any

person who documents that he or she holds a valid, current corresponding license in good standing issued by another state, if:

1. The Council determines that the state that issued the license has or had at the time of issuance, education, training, and examination requirements for licensure substantially equivalent to the current standards of this State;
2. The applicant has been practicing as a licensed occupational therapist or occupational therapy assistant, as applicable, or its equivalent in another state, for a period of at least one year, and not less than 1,200 hours, within the five years prior to the date of application; and
3. The requirements of (c) below are satisfied.

(b) Prior to the issuance of the license, the Council shall have received:

1. Documentation reasonably satisfactory to the Council that the applicant's license in each state in which the applicant is licensed is in good standing;
2. The results of a criminal history record background check of the files of the Criminal Justice Information Services Division in the Federal Bureau of Investigation and the State Bureau of Identification in the Division of State Police that do not disclose a conviction for a disqualifying crime; and
3. Designation of an agent in this State for service of process if the applicant is not a State resident and does not have an office in this State.

(c) For purposes of this section, "good standing" means that:

1. No action has been taken against the applicant's license by any licensing board;
2. No action adversely affecting the applicant's privileges to practice occupational therapy has been taken by any out-of-State institution, organization, or employer;
3. No disciplinary proceeding is pending that could affect the applicant's privileges to practice occupational therapy;
4. All fines levied by any out-of-State board have been paid; and
5. There is no pending or final action by any criminal authority for violation of law or regulation, or any arrest or conviction for any criminal or quasi-criminal offense under the laws of the United States,

New Jersey, or any other state, including, but not limited to: criminal homicide; aggravated assault; sexual assault, criminal sexual contact, or lewdness; or any offense involving any controlled dangerous substance or controlled dangerous substance analog.

(d) For purposes of this section, a "substantially equivalent" examination need not be identical to the current examination requirements of this State, but such examination shall be nationally recognized and of comparable scope and rigor.

(e) If the education and examination requirements in the state in which the applicant is licensed are not substantially equivalent to the Council's current standards as required in (a) above, the Council will consider an applicant's individual experience to compensate for such disparity. In making a determination whether an applicant's experience would compensate for such disparity in substantial equivalence in education or examination, the Council shall consider the following:

1. Length of the experience;
2. Whether the experience was supervised by another individual;
3. The applicant's professional history;
4. The applicant's employment history; and
5. The applicant's education history.

(f) Not later than six months after the issuance of a license, an applicant shall provide the Council with evidence reasonably satisfactory to the Council verifying the applicant's education, training, and examination results.

(g) The Council, after the licensee has been given notice and an opportunity to be heard, may revoke any license based on a license issued by another state obtained through fraud, deception, or misrepresentation.

(h) An applicant shall complete the New Jersey Jurisprudence Orientation.

(i) The Council may grant a license without examination to an applicant seeking reciprocity who holds a corresponding license from another state who does not meet the good standing requirement of (a) above due to a pending action by a licensing board, a pending action by an out-of-State institution, organization, or employer affecting the applicant's privileges to practice, a pending disciplinary proceeding, or a pending criminal charge or arrest for a crime, provided the alleged conduct of the applicant that is the subject of the action,

proceeding, charge, or arrest, assuming it is true, does not demonstrate a serious inability to practice occupational therapy; adversely affect the public health, safety, or welfare; result in economic or physical harm to a person; or create a significant threat of such harm.

SUBCHAPTER 4. TEMPORARY LICENSES

13:44K-4.1 Temporary license

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

(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.-iv. (No change.)

v. Evidence of good moral character, as set forth in (e) below, which shall be an ongoing requirement for licensure;

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;

vii. A certified verification of name change, if applicable; and

viii. An Initial Verification of Supervision form;

2.-4. (No change.)

(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.-iv. (No change.)

v. Evidence of good moral character, as set forth in (e) below, which shall be an ongoing requirement for licensure;

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;

vii. A certified verification of name change, if applicable; and

viii. An Initial Verification of Supervision form;

2.-4. (No change.)

(e) In determining whether the applicant shall be licensed in this State, the Council shall consider evidence, which demonstrates that the applicant:

1. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice occupational therapy with reasonable skill and safety. For purposes of this section, the term "presently" means at the time of application or any time within the 365 days prior to the time of application;

2. Has been convicted of violating any law of this State or any other state relating to controlled dangerous substances or other habit-forming drugs;

3. Has been convicted of violating any law relating to the practice of occupational therapy or occupational therapy assisting consistent with N.J.S.A. 45:1-21(f);

4. Has been convicted of a crime involving moral turpitude; and/or

5. Has had disciplinary action taken against his or her license by any licensing board.

[page=775] (f) An applicant for temporary licensure shall complete the New Jersey Jurisprudence Orientation.

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

(a) (No change.)

(b) Except as provided under (d) below, a temporary license shall expire automatically upon the temporary license holder being notified of failure of the licensure examination. Upon notification of failure of the initial examination, a temporary license holder may apply to the Council for renewal of the temporary license as provided in (c) below.

(c) (No change.)

(d) If a temporary license holder has complied with the renewal procedure set forth in (c) above, until the renewed temporary license is issued by the Council but in no case for a period exceeding 30 calendar days, the original temporary license shall remain valid and the temporary license holder shall not be deemed practicing without a license.

Recodify existing (d)-(f) as (e)-(g) (No change in text.)

SUBCHAPTER 5. SCOPE OF PRACTICE

13:44K-5.3 Delegation of occupational therapy services

(a)-(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-6.3 and based on an evaluation of:

1.-3. (No change.)

(d) (No change.)

13:44K-5.4 Use of physical agent modalities by a licensed occupational therapist; delegation to licensed occupational therapy assistant

(a)-(k) (No change.)

(l) (No change in text.)

13:44K-5.5 Use of physical agent modalities by a licensed occupational therapy assistant; supervisor responsibilities

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

(d) A licensed occupational therapy assistant shall use advanced physical agent modalities only under the supervision of a licensed occupational therapist who has:

1. Met the experience requirements of N.J.A.C. 13:44K-6.2(a); and

2. (No change.)

(e) A licensed occupational therapist shall supervise the use of advanced physical agent modalities by a licensed occupational therapy assistant consistent with the following:

1. The supervising occupational therapist shall provide close supervision, as defined in N.J.A.C. 13:44K-1.2, of the licensed occupational therapy assistant, during which time the occupational therapist shall directly observe the occupational therapy assistant's application of each type of modality in a patient treatment setting no fewer than five times. Documentation of such supervision shall be maintained by the supervising occupational therapist consistent with the requirements of N.J.A.C. 13:44K-6.2(e) and by the licensed

occupational therapy assistant consistent with the requirements of N.J.A.C. 13:44K-6.5(c);

2. Following the five instances of direct observation of the licensed occupational therapy assistant's application of a particular type of modality, the supervising occupational therapist shall determine the level of supervision required of the occupational therapy assistant, consistent with the requirements of N.J.A.C. 13:44K-6.3(b).

i. Notwithstanding (e)2 above, the occupational therapist shall continue to provide close supervision for any occupational therapy assistant who has been engaged in the practice of occupational therapy services for less than one year on a full-time basis, consistent with the requirements of N.J.A.C. 13:44K-6.3(b); and

3. The supervising occupational therapist shall satisfy all supervisor responsibilities set forth in N.J.A.C. 13:44K-6.2 and 6.3 and/or 6.4, as applicable.

(f)-(j) (No change.)

#### SUBCHAPTER 6. SUPERVISION

##### 13:44K-6.1 Supervision requirement

(a) A licensed occupational therapy assistant or 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) A temporary licensed occupational therapy assistant shall work only under the supervision of a licensed occupational therapist, or a licensed occupational therapy assistant who has been delegated supervisory responsibilities pursuant to N.J.A.C. 13:44K-6.6, pursuant to the provisions of this subchapter.

(c) The supervising occupational therapist shall retain responsibility for the occupational therapy care of the client being treated by the licensed occupational therapy assistant, a temporary licensed occupational therapist, or a temporary licensed occupational therapy assistant.

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

13:44K-6.2 Designated supervisor: general qualifications and responsibilities

(a) Prior to supervising any person engaged in the practice of occupational therapy services, a licensed occupational therapist shall have at least 1,200 hours of work experience obtained in no less than one year and within three consecutive years of practice.

(b) A licensed occupational therapist shall not supervise more than five licensees, including occupational therapy assistants, temporary licensed occupational therapists, or temporary licensed occupational therapy assistants.

(c) A licensed occupational therapist may supervise five occupational therapy students who are fulfilling the required fieldwork component of their educational training.

(d) Notwithstanding the provisions of (b) and (c) above, a licensed occupational therapist shall not supervise more than seven persons at one time.

(e) A designated supervisor shall maintain a written plan of supervision that shall include evidence of the ongoing supervision of each occupational therapy assistant and temporary licensee for whom the supervisor is responsible.

13:44K-6.3 Responsibilities of a designated supervisor: occupational therapy assistant

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

(b) 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 services for less than one year on a full-time basis.

1. For purposes of this subsection, "full-time basis" means 1,200 hours of practice. No more than 30 hours of practice shall be obtained in any one week.

(c) When providing routine or general supervision of an occupational therapy assistant, a designated supervisor may also provide interim supervision of the occupational therapy assistant through telephonic or

written communications, including reports and/or conferences, between the supervisor and the occupational therapy assistant.

(d) A designated supervisor who is unavailable to provide occupational therapy assistants with either routine or general supervision as required in (a), (b), or (c) above, for two or more contact periods, shall arrange for substitute supervision by a licensed occupational therapist, who shall follow the established plan of supervision.

[page=776] (e) A designated supervisor who is unable to provide occupational therapy assistants with close supervision as required in (b) above, for more than one day, shall arrange for substitute supervision by a licensed occupational therapist, who shall follow the established plan of supervision.

13:44K-6.4 Responsibilities of a designated supervisor: temporary license holder

(a) A designated supervisor shall be responsible for the close supervision of a temporary license holder.

(b) A designated supervisor who is unavailable to provide a temporary license holder with supervision as required by (a) above, for more than one day, shall arrange for substitute supervision by a licensed occupational therapist, who shall follow the established plan of supervision.

13:44K-6.5 Responsibilities of an occupational therapy assistant and temporary license holder

(a) An occupational therapy assistant, a temporary licensed occupational therapist, or a temporary licensed occupational therapy assistant shall not render nor continue to render client care unless he or she has obtained ongoing direction from his or her designated supervisor.

(b) An occupational therapy assistant, a temporary licensed occupational therapist, and a temporary licensed occupational therapist assistant shall each be responsible for clients within the limits of his or her respective scope of practice pursuant to N.J.A.C. 13:44K-5.1 or 5.2, as applicable.

(c) An occupational therapy assistant, a temporary licensed occupational therapist, and a temporary licensed occupational therapist assistant shall maintain a record of supervision, which shall include the name and license number of his or her designated supervisor, the date when the occupational therapy assistant or temporary licensee received supervision, and the type of supervision that was provided.

13:44K-6.6 (No change in text.)

SUBCHAPTER 7. (RESERVED)

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, in writing, 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) (No change.)

(c) A licensee shall, within 30 days of receiving a notice of disciplinary action taken against the licensee in another jurisdiction or actions affecting the licensee's privileges taken by any institution, organization, or employer related to the practice of occupational therapy, occupational therapy assisting, or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction, report to the Council in writing his or her receipt of such notification.

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:

"Client" means any person who is the recipient of occupational therapy evaluation, instruction, treatment, or consultation rendered by a licensee.

...

(b) A licensee shall not engage in sexual contact with a client or immediate family member or guardian of 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.-2. (No change.)

(c) (No change.)

(d) A licensee shall not seek or solicit sexual contact with a client or immediate family member or guardian of a client with whom he or she has a client-therapist relationship and shall not seek or solicit sexual contact with any person in exchange for professional services.

(e)-(k) (No change.)

13:44K-8.6 License renewal

(a) The Council shall send a notice of renewal to each licensed occupational therapist and licensed occupational therapy assistant, at least 60 days prior to the expiration of the license. The notice of renewal shall explain inactive renewal and advise the licensee of the option to renew as inactive. If the notice to renew is not sent 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew provided that the license is renewed within 60 days from the date the notice is sent or within 30 days following the date of license expiration, whichever is later.

(b) A licensee shall renew his or her license for a period of two years from the last expiration date. The licensee shall submit a renewal application to the Council, along with the renewal fee set forth in N.J.A.C. 13:44K-11.1, prior to the date of license expiration.

(c) A licensee may renew his or her license by choosing inactive status. A licensee electing to renew his or her license as inactive shall not engage in the practice of occupational therapy, occupational therapy assisting, or hold himself or herself out as eligible to engage in the practice of occupational therapy or occupational therapy assisting in New Jersey until such time as the license is returned to active 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, a renewal fee, and a late fee as 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 practicing without a license, as applicable.

(e) A licensee who fails to submit a renewal application within 30 days of license expiration shall have his or her license suspended without a hearing.

(f) A licensee who continues to engage in the practice of occupational therapy or occupational therapy assisting with a suspended license shall be deemed to be engaging in the unauthorized practice of occupational therapy or occupational therapy assisting and shall be

subject to action consistent with N.J.S.A. 45:1-14 et seq., even if no notice of suspension has been provided to the individual.

13:44K-8.7 License reactivation

(a) A licensee who holds an inactive license pursuant to N.J.A.C. 13:44K-8.6(c) may apply to the Council for reactivation of the inactive license. A licensee seeking reactivation of an inactive license shall submit:

1. A renewal application;
2. A certification of employment listing each job held during the period the license was inactive, which includes the name, address, and telephone number of each employer; and
3. The renewal fee for the biennial period for which reactivation is sought as set forth in N.J.A.C. 13:44K-11.1.
  - i. If the renewal application is sent during the first year of the biennial period, the applicant shall submit the renewal fee as set forth in N.J.A.C. 13:44K-11.1.
  - ii. If the renewal application is sent during the second year of the biennial period, the applicant shall submit one-half of the renewal fee as set forth in N.J.A.C. 13:44K-11.1.

(b) If a Council review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reactivation, the Council may require the applicant to submit to and successfully pass an examination or an assessment of skills, a refresher course, or other requirements as determined by the Council prior to reactivation of the license. If that examination or assessment identifies deficiencies or educational needs, the Council may require the applicant as a condition of reactivation of licensure to take and successfully complete any education or training or to submit to any supervision, monitoring, or limitations as the Council determines is necessary to assure that the applicant practices with reasonable skill and safety. The Council, in its discretion, may restore the license subject to the applicant's completion of the training within a period of time prescribed by the Council following the restoration of the license. In making its determination whether there are practice deficiencies requiring [page=777] remediation, the Council shall consider the following non-exhaustive issues:

1. Length of duration license was inactive;
2. Employment history;

3. Professional history;
4. Disciplinary history and any action taken against the applicant's license by any licensing board;
5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of occupational therapy or occupational therapy assisting or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;
6. Pending proceedings against a professional or occupational license issued to the licensee by a professional board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
7. Civil litigation related to the practice of occupational therapy or occupational therapy assisting or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

13:44K-8.8 License reinstatement

(a) A licensee who has had his or her license suspended pursuant to N.J.A.C 13:44K-8.6(e) may apply to the Council for reinstatement. A licensee applying for reinstatement shall submit:

1. A reinstatement application;
2. A certification of employment listing each job held during the period of suspended license, which includes the names, addresses, and telephone numbers of each employer;
3. The renewal fee for the biennial period for which reinstatement is sought;
4. The past due renewal fee for the biennial period immediately preceding the renewal period for which reinstatement is sought; and
5. The reinstatement fee as set forth in N.J.A.C. 13:44K-11.1.

(b) If a Council review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reinstatement, the Council may require the applicant to submit to and successfully pass an examination or an assessment of skills, a refresher course, or other requirements as determined by the Council prior to reinstatement of the license. If that examination or assessment identifies deficiencies or educational needs, the Council may require the applicant as a condition of reinstatement of licensure to take and successfully complete any education or training or to submit to any supervision, monitoring, or

limitations as the Council determines is necessary to assure that the applicant practices with reasonable skill and safety. The Council, in its discretion, may restore the license subject to the applicant's completion of the training within a period of time prescribed by the Council following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Council shall consider the following non-exhaustive issues:

1. Length of duration license was suspended;
2. Employment history;
3. Professional history;
4. Disciplinary history and any action taken against the applicant's license by any licensing board;
5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of occupational therapy, occupational therapy assisting, or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;
6. Pending proceedings against a professional or occupational license issued to the licensee by a professional board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
7. Civil litigation related to the practice of occupational therapy, occupational therapy assisting, or other professional or occupational practice in New Jersey, any other state, the District of Columbia or in any other jurisdiction.

13:44K-8.9 Claims submissions forms

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

1.-4. (No change.)

(c) (No change.)

(d) The accuracy of all information contained in written or electronic submissions to a third-party payor or employer, including pre-

determinations, 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) (No change.)

#### SUBCHAPTER 9. BUSINESS PRACTICES; PROFESSIONAL CONDUCT

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

(a)-(d) (No change.)

(e) An occupational therapist shall provide a copy of a written fee schedule to any interested person upon request. When the fee is set by a medical, health, educational, or social agency, an occupational therapist shall inform the client about how to obtain a copy of the written fee schedule.

#### SUBCHAPTER 10. CLIENT RECORDS

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

(a)-(e) (No change.)

(f) A licensed occupational therapist, or a licensed occupational therapy assistant acting under the supervision of a licensed occupational therapist, shall not falsify a patient's record.

##### 13:44K-10.3 Release of client records

(a) An occupational therapist shall provide one copy of the client record of the occupational therapy services provided by the licensee within 14 days of a written request by the client, the client's guardian, or any other party designated by the client or the client's guardian.

(b)-(f) (No change.)

#### SUBCHAPTER 11. FEES

##### 13:44K-11.1 Fee schedule

(a) The following fees shall be charged by the Occupational Therapy Council:

1.-5. (No change)

6. Temporary license..... 50.00

7. Temporary license renewal..... 50.00

8. Late renewal (up to 30 days after renewal deadline)..... 40.00

9. Reinstatement fee (over 30 days from renewal deadline)... 80.00

Recodify existing 12.-13. as 10.-11. (No change in text.)

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