

# **RULES AND REGULATIONS FOR LICENSING OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS**

[R5-40.1-OCC]



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

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## ***INTRODUCTION***

These amended *Rules and Regulations for the Licensing of Occupational Therapists and Occupational Therapy Assistants [R5-40.1-OCC]* are promulgated pursuant to the authority conferred under section 5-40.1-5 of the General Laws of Rhode Island, as amended, and are established for the purpose of adopting minimum standards for the licensing of occupational therapists and occupational therapy assistants offering occupational therapy services in this state.

In accordance with the provisions of section 42-35-3(c) of the General Laws of Rhode Island, as amended, in the development of the regulations, consideration was given to: (1) alternative approaches to the regulations; and (2) duplication or overlap with other state regulations. Based on the available information, no known alternative approach, duplication or overlap was identified.

These amended *regulations* shall supersede all previous *Rules and Regulations for the Licensing of Occupational Therapists and Occupational Therapy Assistants* promulgated by the Rhode Island Department of Health and filed with the Rhode Island Secretary of State.

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## Section 1.0 *Definitions*

Wherever used in these rules and regulations the following terms shall be construed as follows:

- 1.1 **"Act"** refers to Chapter 5-40.1, entitled "Occupational Therapy", of the General Laws of Rhode Island, as amended.
- 1.2 **"Administrator"** means the Administrator of the Division of Professional Regulation.
- 1.3 **"Board"** means the Board of Occupational Therapy within the Division of Professional Regulation established pursuant to the provisions of section 5-40.1-4 of the Act.
- 1.4 **"Director"** means the Director of the Rhode Island Department of Health.
- 1.5 **"Division"** means the Division of Professional Regulation.
- 1.6 **"Occupational therapist"** means a person licensed to practice occupational therapy under the provisions of the Act and the rules and regulations herein.
- 1.7 **"Occupational therapy"** is the use of purposeful activity or interventions designed to achieve functional outcomes which promote health, prevent injury or disability, and develop, improve, sustain, or restore the highest possible level of independence of any individual who has an injury, illness, cognitive impairment, sensory impairment, psychosocial dysfunction, mental illness, developmental or learning disability, physical disability, or other disorder or condition.

Occupational therapy includes evaluation by means of skilled observation of functional performance and/or assessment through the administration and interpretation of standardized or nonstandardized tests and measurements.

Occupational therapy services include, but are not limited to:

- (a) the evaluation and provision of treatment in consultation with the individual, family or other appropriate persons;
- (b) interventions directed toward developing, improving, sustaining, or restoring daily living skills, including self-care skills and activities that involve interactions with others and the environment, work readiness or work performance, play skills or leisure capacities or educational performance skills;
- (c) developing, improving, sustaining or restoring sensorimotor, oral-motor, perceptual or neuromuscular functioning; or emotional, motivational, cognitive or psychosocial components of performance; and
- (d) education of the individual, family or other appropriate persons in carrying out appropriate interventions.

These services may encompass evaluation of need and the design, development, adaptation, application or training in the use of assistive technology devices; the design, fabrication or

application of rehabilitative technology, such as selected orthotic devices; training in the functional use of orthotic or prosthetic devices; the application of therapeutic activities, modalities, or exercise as an adjunct to or in preparation for functional performance; the application of ergonomic principles; the adaptation of environments and processes to enhance daily living skills; or the promotion of health and wellness.

- 1.8 ***“Occupational therapy assistant”*** means a person licensed to practice occupational therapy under the provisions of the Act and the rules and regulations herein.
- 1.9 ***“Occupational therapy aide”*** means a person not licensed pursuant to the statutes and rules applicable to the practice of occupational therapy, who works under the supervision of a licensed occupational therapist or occupational therapy assistant, who assists in the practice of occupational therapy and whose activities require an understanding of occupational therapy, but do not require professional or advanced training in the basic anatomical, psychological and social sciences involved in the practice of occupational therapy.
- 1.10 ***“Supervision”*** means that a licensed occupational therapist or occupational therapy assistant shall at all times be responsible for supportive personnel and students.

## Section 2.0 ***License Requirements***

- 2.1 Pursuant to section 5-40.1-6 of the Act, no person shall practice occupational therapy or hold himself or herself out as an occupational therapist or occupational therapy assistant or as being able to practice as an occupational therapist or occupational therapy assistant or as being able to practice occupational therapy or to render occupational therapy services in this state unless he or she is licensed under the provisions of the Act and the rules and regulations herein.
- 2.1.1 The Act shall not be construed as preventing or restricting the practice, services or activities of the following:
- a) any individual licensed in this state pursuant to any other law from engaging in the profession or occupation for which he or she is licensed; or
  - b) any individual employed as an occupational therapist or occupational therapy assistant by the government of the United States or any agency of it, if that person provides occupational therapy solely under the direction or control of the organization by which he or she is employed; or
  - c) any individual pursuing a supervised course of study leading to a degree or certificate in occupational therapy at an accredited or approved educational program, if the person is designated by a title which clearly indicates his or her status as a student or trainee; or
  - d) any individual fulfilling the supervised fieldwork experience requirements of section 3.1(d) herein, if the experience constitutes a part of the experience necessary to meet the requirements of that section.
- 2.1.2 Only an individual may be licensed under this Act.

- 2.1.3 Only an individual licensed in this state as an occupational therapist may use the words "Occupational Therapist," "Licensed Occupational Therapist," "Occupational Therapist Registered" in connection with his/her name or place of business; or may use other words, letters, abbreviations or insignia indicating or implying that he or she is an occupational therapist.
- 2.1.4 Only an individual licensed in this state as an occupational therapy assistant may use the words "Certified Occupational Therapy Assistant", "Occupational Therapy Assistant", "Licensed Occupational Therapy Assistant" in connection with his/her name or place of business; or may use words, letters, abbreviations or insignia indicating or implying that he/she is an occupational therapy assistant.

### Section 3.0 *Qualifications for Licensure*

- 3.1 Any applicant seeking licensure as an occupational therapist or occupational therapy assistant in this state must:
  - a) be at least eighteen (18) years of age;
  - b) be of good moral character;
  - c) have successfully completed the academic requirements of an education program in occupational therapy accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education or such other accrediting agency as may be approved by the Board;
  - d) have successfully completed a period of supervised fieldwork experience arranged by the recognized educational institution where he or she met the academic requirements;
    - i. for an occupational therapist, a minimum of twenty-four (24) weeks of supervised fieldwork experience is required;
    - ii. for an occupational therapy assistant, a minimum of twelve (12) weeks is required;
  - e) have successfully passed the National Certification Examination for Occupational Therapists, Registered or National Certification Examination for Occupational Therapy Assistants of the National Board for Certification in Occupational Therapy (NBCOT) or other occupational therapy certification examination as approved by the Board.

### Section 4.0 *Application for Licensure and Fee*

- 4.1 Application for licensure to practice occupational therapy in this state either by endorsement or by examination, shall be made on forms provided by the Division, which shall be completed, notarized and submitted to the Board thirty (30) days prior to the scheduled date of the Board meeting. Such application shall be accompanied by the following documents:
  - a) i) **For U. S. Citizens:** a certified copy of birth record or naturalization papers;

- ii) ***For non-U.S. Citizens:*** documented evidence of alien status such as, immigration papers or resident alien card or such other verifying papers acceptable to the Administrator;
- b) documented evidence and supporting transcripts of qualifying credentials as set forth in section 3.0 herein;
- c) one (1) unmounted passport photograph of the applicant (head and shoulder view) approximately 2x3 inches in size;
- d) a statement from the Board of Occupational Therapy in each state in which the applicant has held or holds licensure or is otherwise subject to state regulation to be submitted to the Board of this state attesting to the licensure status of the applicant during the time period the applicant held licensure in said state;
- e) the results of the written national examination; and
- f) the non-refundable application fee of ninety dollars (\$90.00) made payable by check to the General Treasurer, State of Rhode Island.

## Section 5.0 ***Licensure of Occupational Therapists and Occupational Therapy Assistants***

### 5.1 ***By Examination:***

Applicants seeking licensure as occupational therapists or occupational therapy assistants shall be required to pass, with a grade determined by the Board, the national written examination of the National Board for Certification in Occupational Therapy (NBCOT) approved by the Board to test the applicant's fitness to engage in the practice of occupational therapy pursuant to the provisions of the Act.

5.1.1 The date, time and place of examinations shall be available from the National Board for Certification in Occupational Therapy (NBCOT).

5.1.2 In case of failure of any applicant to satisfactorily pass an examination, such applicant shall be entitled to re-examination.

### 5.2 ***Foreign Trained Applicants:***

Applicants from foreign occupational therapy schools must meet the requirements of the National Board for Certification in Occupational Therapy (NBCOT) and present evidence of passage of the National Certification Examination for Occupational Therapists or the National Certification Examination for Occupational Therapy Assistants of the (NBCOT).

Furthermore, applicants must meet all of the appropriate requirements for licensure to the satisfaction of the Board and in accordance with the statutory and regulatory provisions herein.

### 5.3 ***Graduate Practice:***

Any individual who graduates from an approved occupational therapy school who has filed a completed application for licensure, may upon receiving a receipt (permit to perform as a

graduate occupational therapist or graduate occupational therapy assistant) from the Division, perform as an occupational therapist, or occupational therapy assistant, under the supervision of an occupational therapist licensed in this state, only until successful completion of the examination, but in no event shall the receipt (permit) extend beyond ninety (90) days from its issuance.

5.3.1 If such an applicant fails to take the examination without due cause or fails to pass the examination within ninety (90) days from the effective date of graduate status and fails to receive a license, the graduate practice permit shall become null and void and all aforementioned privileges shall automatically cease.

5.3.2 Furthermore, an individual referred to in section 5.3 above, shall, during the interim period (between time of application and examination) identify himself or herself only as a "graduate occupational therapist" or "graduate occupational therapy assistant."

#### 5.4 *Licensure by Endorsement*

Occupational therapists and occupational therapy assistants who are licensed or otherwise regulated to practice under laws of another state or territory or the District of Columbia may, upon receiving a receipt (permit) from the Division, perform as an occupational therapist or occupational therapy assistant under the supervision of a qualified and licensed occupational therapist or occupational therapy assistant.

If such an applicant fails to receive licensure when the Board reviews the application, all aforementioned privileges shall automatically cease.

#### 5.5 *Supervision*

##### *Occupational Therapists*

5.5.1 A licensed occupational therapist shall exercise sound judgment and provide adequate care in the performance of duties.

- a) A licensed occupational therapist is permitted to supervise the following:
  - occupational therapists;
  - occupational therapy assistants;
  - occupational therapy aides;
  - care extenders;
  - occupational therapy students; and
  - volunteers.

##### *Occupational Therapy Assistants*

5.5.2 A licensed occupational therapy assistant shall exercise sound judgment and provide adequate care in the performance of duties.

- a) A licensed occupational therapy assistant is permitted to supervise the following:
  - occupational therapy aides;
  - care extenders;



students; and  
volunteers.

- 5.5.3 Subject to the requirements of this section, a licensed occupational therapy assistant may practice limited occupational therapy only under the supervision of a licensed occupational therapist.
- 5.5.4 Supervision requires, at a minimum, that the supervising licensed occupational therapist meet in person with the licensed occupational therapy assistant to provide initial direction and periodic on-site supervision.
- 5.5.5 The supervising licensed occupational therapist working with the licensed occupational therapy assistant shall determine the amount and type of supervision necessary in response to experience and competence of the licensed occupational therapy assistant and complexity of the treatment program.
- 5.5.6 The supervisor and the licensed occupational therapy assistant are jointly responsible for maintaining records, including patient records, to document compliance with these regulations.
- 5.5.7 A licensed occupational therapy assistant:
  - a) may not initiate a treatment program until the patient has been evaluated and the treatment planned by the licensed occupational therapist;
  - b) may not perform an evaluation, but may assist in the data-gathering process and administer specific assessments where clinical competence has been demonstrated, under the direction of the licensed occupational therapist;
  - c) may not analyze or interpret evaluation data;
  - d) may participate in the screening process by collecting data and shall communicate the information gathered to the licensed occupational therapist;
  - e) shall monitor the need for reassessment and report changes in status that might warrant reassessment or referral under the supervision of the licensed occupational therapist; and
  - f) shall immediately discontinue any treatment procedure which appears harmful to the patient and immediately notify the supervising occupational therapist.

### ***Occupational Therapy Aides***

- 5.5.8 An occupational therapy aide is a worker who is trained on the job. A licensed occupational therapist or licensed occupational therapy assistant using occupational therapy aide personnel to assist with the provision of occupational therapy services must provide close supervision in order to protect the health and welfare of the consumer.

- 5.5.9 The primary function of an occupational therapy aide functioning in an occupational therapy setting is to perform designated routine tasks related to the operation of an occupational therapy service. Such tasks may include, but are not limited to:
- a) routine department maintenance;
  - b) transportation of patients/clients;
  - c) preparation or setting up of treatment equipment and work area;
  - d) assisting patients/clients with their personal needs during treatment;
  - e) assisting in the construction of adaptive equipment; and
  - f) carrying out a predetermined segment or task in the patient's care.
- 5.5.10 The licensed occupational therapist or occupational therapy assistant shall not delegate to an occupational therapy aide:
- a) performance of occupational therapy evaluation procedures;
  - b) initiation, planning, adjustment, modification, or performance of occupational therapy procedures requiring the skills or judgment of a licensed occupational therapist or licensed occupational therapy assistant;
  - c) making occupational therapy entries directly in patients' or clients' official records; and
  - d) acting on behalf of the occupational therapist in any matter related to occupational therapy which requires decision making or professional judgment.

## Section 6.0 *Issuance and Renewal of License*

- 6.1 Upon the recommendation of the Board, the Director shall issue to applicants who have satisfactorily met the licensure requirements herein, a license to practice occupational therapy in this state. Said license, unless sooner suspended or revoked, shall expire on the thirty-first (31<sup>st</sup>) day of March, of each even year (biennially).
- 6.2 On or before the first (1<sup>st</sup>) day of March of each even year, the Administrator of the Division shall mail an application for renewal of license to every individual to whom a license has been issued or renewed during the current licensure period. Every individual so licensed who desires to renew his or her license shall file with the Division such renewal application duly executed together with the evidence of continuing education requirements of section 6.5 (below) and the renewal fee of ninety dollars (\$90.00) made payable by check to the General Treasurer, state of Rhode Island, on or before the thirty-first day of March of each even year.
- 6.3 Upon receipt of such renewal application and payment of fee, the Director, upon the recommendation of the Board, shall grant a renewal license effective the thirty-first (31<sup>st</sup>) day of March for a period of two (2) years, unless sooner suspended or revoked.

6.4 Any individual who allows his or her license to lapse by failing to renew it on or before the thirty-first (31<sup>st</sup>) day of March of the next even year as provided above, may be reinstated by the Director upon receiving a receipt from the Division for payment of the current renewal fee plus an additional forty dollars (\$40.00) made payable by check to the General Treasurer, state of Rhode Island.

6.4.1 Any individual using the title "occupational therapist" or "occupational therapy assistant" during the time his or her license has lapsed shall be subject to the penalties provided for violations of these regulations and the Act.

6.5 ***Continuing Education***

On application for renewal of license, occupational therapists and occupational therapy assistants must show proof of participation in twenty (20) hours biennially in presentations, clinical instruction, publications, research, inservice programs, continuing education activities offered by the American Occupational Therapy Association or American Occupational Therapy Association approved providers, university courses, and/or self-study courses. Contact hours of continuing education shall be recognized by the Board as follows:

<b>Category I:</b> Formal continuing education program that may consist of university courses, workshops, inservice programs, and/or institutes.	<b>Credit:</b> One (1) continuing education contact hour for each hour attended
<b>Category II:</b> Professional continuing education activities and scientific meetings and self-directed continuing education activities that may consist of local, regional, national symposia, colloquia, journal clubs, self- study courses, etc.	<b>Credit:</b> One (1) continuing education contact hour for each hour attended
<b>Category III :</b> Formal presentations (including clinical instruction)	<b>Credit:</b> Two (2) hours of continuing education contact hours for each hour of instruction; four (4) hours of continuing education contact hours for two (2) hours of instruction; five (5) hours of continuing education contact hours for three (3) hours of instruction; up to a maximum of five (5) hours of continuing education contact hours
<b>Category IV :</b> Exceptional contributions to professional development that may consist of written publications	<b>Credit:</b> Continuing education contact hours shall be awarded for each written publication as listed below: <ul style="list-style-type: none"> <li>• <i>Book:</i> ten (10) continuing education contact hours;</li> <li>• <i>Juried article:</i> eight (8) continuing education contact hours;</li> <li>• <i>Book chapter:</i> five (5) continuing education contact hours;</li> <li>• <i>Non-juried article (must be published in a national publication in order to receive CE credit):</i> four (4) continuing education contact hours.</li> </ul>

- 6.5.1 It shall be the sole responsibility of the individual occupational therapist or occupational therapy assistant to obtain documentation (e.g., course descriptions, proof of attendance) from the sponsoring organization, agency, or institution of his/her participation in a continuing education program and/or activity. These documents shall be retained by each licensee for no less than four (4) years and are subject to random audit by the Department.
- 6.5.2 Occupational therapists or occupational therapy assistants initially licensed during the two (2) year period preceding license renewal shall have their credits for continuing education prorated according to the time actually licensed during the two (2) year period.
- 6.5.3 The Board, at its discretion, may grant one of the following to an occupational therapist or occupational therapy assistant for reasons of hardship or other extenuating circumstances:
- an extension of time to complete the continuing education requirements;
  - a variance from the continuing education requirements;
  - a waiver from the continuing education requirements.

## Section 7.0 *Inactive Status*

7.1 An individual licensed as an occupational therapist in this state who does not intend to engage in the practice of occupational therapy within this state during any year, may upon request to the Division, may have his or her name transferred to an inactive status and shall not be required to register biennially or pay any fee as long as he or she remains inactive.

7.1.1 Any individual whose name has been transferred to an inactive status pursuant to section 7.1 above, may be restored to active status to practice occupational therapy without a penalty fee, upon the filing of an application for licensure renewal, requirements, the licensure renewal fee of sixty-two dollars and fifty cents (\$62.50) made payable by check to the General Treasurer, state of Rhode Island, and such other information as may be requested by the Division.

## Section 8.0 *Denial, Suspension or Revocation of License and Violations*

8.1 Pursuant to section 5-40.1-14 of the Act, the Board may deny a license or refuse to renew a license or may suspend or revoke a license or may impose probationary conditions if the licensee has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Such unprofessional conduct shall include but not be limited to the following:

- a) obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
- b) being found guilty of fraud or deceit in connection with services rendered as an occupational therapist or occupational therapy assistant;
- c) committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by a court of competent jurisdiction or a plea of “no contest” is conclusive evidence that a felony or misdemeanor was committed.
- d) violating any lawful order, rule or regulation rendered or adopted by the Board or Director;
- e) failing to report, in writing, to the Board any disciplinary decision issued against the licensee or the applicant in another jurisdiction within thirty (30) days of the disciplinary decisions;
- f) violating any provisions of the Act and the rules and regulations herein; and
- g) providing services to a person who is making a claim as a result of a personal injury, who charges or collects from said person any amount in excess of the reimbursement to the occupational therapist by the insurer as a condition of providing or continuing to provide services or treatment.

8.2 A denial, refusal to renew, suspension, revocation or imposition of probationary conditions upon the license may be ordered by the Board or the Director, after a hearing in the manner

provided by the Administrative Procedures Act, Chapter 35-42 of the General Laws of Rhode Island, as amended, and in accordance with section 9.0 herein.

- 8.3 The American Occupational Therapy Association's "Occupational Therapy Code of Ethics" shall be adopted as a public statement of the values and principles used in promoting and maintaining high standards of behavior in occupational therapy. These include, but are not limited to, the following:
- (1) occupational therapy personnel shall demonstrate a concern for the well-being of the recipients of their services;
  - (2) occupational therapy personnel shall respect the rights of the recipients of their services;
  - (3) occupational therapy personnel shall achieve and continually maintain high standards of competence;
  - (4) occupational therapy personnel shall comply with laws and association policies guiding the profession of occupational therapy;
  - (5) occupational therapy personnel shall provide accurate information about occupational therapy services; and
  - (6) occupational therapy personnel shall treat colleagues and other professionals with fairness, discretion, and integrity.

#### Section 9.0 ***Rules Governing Practices and Procedures***

- 9.1 All hearings and reviews required under the provisions of the Act, and the rules and regulations thereof, shall be held in accordance with the provisions of the *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP)*.

#### Section 10.0 ***Severability***

- 10.1 If any provision of these rules and regulations or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of the rules and regulations which can be given effect, and to this end the provisions of the rules and regulations are declared to be severable.