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July 24, 2020

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Mr. John Thurston  
Secretary of State  
State Capitol – Room 026  
Little Rock, AR 72201-1094

**Re: My Client: Arkansas State Medical Board  
Amendment to Rule 6 – Rules Governing the Licensing and Practice of Occupational  
Therapists**

To Whom It May Concern:

Enclosed please find the following documents:

1. Arkansas Register Transmittal Sheet; and
2. Amendment to Rule 6 – Rules Governing the Licensing and Practice of Occupational Therapists.

Please file this accordingly.

Sincerely,

**HOPE, TRICE, O'DWYER & WILSON, P.A.**



Kevin M. O'Dwyer  
Attorney for the Arkansas State Medical Board

KMO:ena  
enclosure

cc: Ms. Amy Embry, Executive Director (via e-mail [Amy.Embry@armedicalboard.org](mailto:Amy.Embry@armedicalboard.org))  
Matt Gilmore (via e-mail [matt.gilmore@arkansas.gov](mailto:matt.gilmore@arkansas.gov))

# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

**John Thurston**

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For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Division of Health Related Board and Commissions/Arkansas State Medical Board

Department Department of Health

Contact Amy Embry, Executive Director E-mail Amy.Embry@armedicalboard.org Phone 501-296-1802

Statutory Authority for Promulgating Rules \_\_\_\_\_

**Rule Title:** Rule 6 - Rules Governing the Licensing and Practice of Occupational Therapists

Intended Effective Date

(Check One)

☐ Emergency (ACA 25-15-204)

☐ 10 Days After Filing (ACA 25-15-204)

☐ Other \_\_\_\_\_  
(Must be more than 10 days after filing date.)

Legal Notice Published .....

Final Date for Public Comment .....

Reviewed by Legislative Council .....

Adopted by State Agency .....

Date

4/28/2020

5/12/2020

7/22/2020

6/4/2020

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Kevin O'Dwyer

kodwyer@htolaw.com

Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Amy E. Embry  
Signature

501-296-1892

Amy.Embry@armedicalboard.org

Phone Number

E-mail Address

Executive Director

Title

7-23-2020

Date



**RULE NO. 6:****RULES GOVERNING THE LICENSING AND PRACTICE OF OCCUPATIONAL THERAPISTS**

1. APPLICATION FOR LICENSURE. Any person who plans to practice as a licensed occupational therapist or occupational therapy assistant in the state of Arkansas shall, in addition to demonstrating his or her eligibility in accordance with the requirements of Section 7 of Act 381 of 1977, apply for licensure to the Board, on forms and in such a manner as the Board shall prescribe.
  - 1.1 FORMS. Application forms can be secured from the Arkansas State Medical Board.
  - 1.2 FILING REQUIREMENTS. Completed applications shall be submitted together with necessary documents and filing fee to the Board. The filing fee is not refundable. Applications and documentation must be completed within one year of date of receipt by the Arkansas State Medical Board. Applications and documentation over one year old are voided and the applicant must reapply.
  - 1.3 BOARD ACTION ON APPLICANTS. Applications for licensure shall be acted upon by the Board no later than its next regularly scheduled meeting following the receipt of the required fee and all credentials.
2. EXAMINATION. All occupational therapists and occupational therapy assistants are required to pass an examination, approved by the Board, for licensure to practice the profession in Arkansas, except as otherwise provided in Arkansas Code 17-88-103. The Board has adopted for this purpose the examination administered by the National Board for Certification in Occupational Therapy for the certification of occupational therapists and occupational therapy assistants. For this purpose the Board shall follow the schedule, format and acceptable passing scores set by the National Board for Certification in Occupational Therapy and its designated agent. Applicants may obtain their examination scores in accordance with such rules as the National Board for Certification in Occupational Therapy may establish.
  - 2.1 RE-EXAMINATION. An applicant who fails an examination may make reapplication to the National Board for Certification in Occupational Therapy for re-examination accompanied by the prescribed fee. Any applicant who fails or misses three (3) examinations must take additional educational work in the areas of his weakness as determined by the Committee before being eligible for re-examination.
3. LICENSING. All occupational therapists and occupational therapy assistants must be licensed to practice in the state of Arkansas prior to practicing the profession.
  - 3.1 BY EXAMINATION. The Board shall register as an occupational therapist or occupational therapy assistant and shall issue a license to any person who satisfactorily passes the said examination provided for in these Rules and Regulations, and who otherwise meets the requirements for qualification contained herein and pays a fee as determined by the Board.
  - 3.2 TEMPORARY LICENSES. The Secretary of the Board shall issue a temporary license, without examination, to practice occupational therapy, in association with an occupational therapist, licensed under the Act, to persons who have completed the education and experience requirements of the Act and rules and who are required to be licensed in order to obtain employment as an occupational therapist or an occupational therapy assistant. The temporary license shall only be renewed once if the applicant has not passed the examination or if the applicant has failed to take the qualifying examination, unless the failure is justified by good cause acceptable at the discretion of the Board, with recommendation of the Committee.
  - 3.3 RENEWAL.
    - (A) A renewal or re-registration fee shall be paid annually to the Board by each occupational therapist and occupational therapy assistant who holds a license to practice occupational therapy in the State of Arkansas.
    - (B) Each licensee must complete, answer truthfully, and provide such information on a Renewal Application prior to being relicensed.
    - (C) Each occupational therapist and occupational therapy assistant shall be required to complete ten (10) continuing education credits each year, as a prerequisite for license renewal in the State of Arkansas. Credit for continuing education requirements may be earned in the following manner:
      - (1) Workshops, refresher courses, professional conferences, seminars, or facility-based continuing education programs, designated for occupational therapists. Hour for hour credit on program content only.
        - (a) Evaluate professional skills using the National Board for Certification in Occupational Therapy online Self-Assessment tool or similar professional skills assessment tool; limited to one (1) continuing education credit.
        - (b) Volunteer for an organization that enhances one's practice roles; limited to two (2) continuing education credits. Five (5) hours of volunteer work equals one (1) continuing education credit. Hours will need to be verified from the organization on their letterhead. Letter will confirm hours and the overall outcome of the service.
        - (c) Mentoring an occupational therapist or occupational therapy assistant colleague to improve skills; limited to two (2) continuing education credits. Form on the National Board for

Certification in Occupational Therapy website must be completed and submitted to the Board.

- (d) Receive mentoring from a current licensed occupational therapist or occupational therapy assistant. Form from NBCOT's website must be completed and submitted to the Board; limited to two (2) continuing education credits.
- (e) Participation in a professional occupational therapy study group/online study group designed to expand one's knowledge; limited to two (2) continuing education credits.
- (f) Level I fieldwork supervision equals two (2) continuing education credits; Level II fieldwork supervision equals four (4) continuing education credits; limited to four (4) continuing education credits; and Level III field work/doctoral capstone experience equals six (6) continuing education credits.
- (2) Professional presentation at a state, national, or international workshop, seminar, or conference. One-time presentation per topic; time spent on preparation cannot be included. Limited to ten (10) continuing education credits.
- (3) Formal academic coursework related to the field of occupational therapy. One (1) to two (2) semester hour class equivalent to five (5) continuing education credits. Three (3) to four (4) semester hour class equivalent to ten (10) continuing education credits.
  - (a) Serve as adjunct faculty teaching an occupational therapy course (must not be one's primary role); limited to ten (10) continuing education credits.
- (4) Publications/Media; Research/Grant activities. A request to receive credit for these activities must be submitted in writing, for approval, to the Arkansas State Occupational Therapy Examining Committee thirty (30) days prior to the expiration of the license. Ten (10) continuing education credits earned however grant must be complete and the Committee must provide pre-approval before being accepted for continuing education credits.
  - (a) Developing training manuals, multimedia, or software programs that advance the professional skills of occupational therapist (must not be one's primary role); limited to five (5) continuing education credits for non-peer review and ten (10) continuing education credits for published peer review.

- (b) Author of a practice-area related article in a non-peer reviewed professional publication; limited to five (5) continuing education credits.

- (c) Author of a practice-area related article in a peer-reviewed professional publication; limited to ten (10) continuing education credits.

- (d) Author of a practice-area related article in a newsletter or community newspaper; limited to one (1) continuing education credit.

- (e) Author of a chapter in a practice-area related professional textbook; limited to ten (10) continuing education credits.

(5) Self-study.

- (a) Book, journal or video reviews. Must be verified by submission of a one (1) page typewritten review of the material studied, including application to clinical practice, one (1) continuing education credit per review; two (2) hour maximum per year.
- (b) Self-study coursework verified by submission of proof of course completion. The number of contact hours credited will be determined by the Arkansas Occupational Therapy Examining Committee. Course outline and proof of completion must be submitted to the Committee thirty (30) days prior to the expiration of the license.
- (6) Any deviation from the above continuing education categories will be reviewed on a case by case basis by the Committee. A request for special consideration or exemption must be submitted in writing sixty (60) days prior to the expiration of the license.
- (7) All continuing education programs shall directly pertain to the profession of occupational therapy. The Committee will not pre-approve continuing education programs. All occupational therapists licensed by the Board in the State of Arkansas must complete annually ten (10) continuing education hourly units as a condition for renewal of a license. Each licensee will sign his or her renewal application verifying that he or she has completed said ten (10) hours and will maintain for a period of three (3) years proof of the courses taken, should it be requested by the Board for audit purposes. Acceptable documentation to maintain on file is as follows:
  - (a) Official transcripts documenting completion of academic coursework



- directly related to the field of occupational therapy.
- (b) A signed verification by a program director or instructor of the practitioner's attendance in a program, by letter on letterhead of the sponsoring agency, certificate, or official continuing education transcript, accompanied by a brochure, agenda, program or other applicable information indicating the program content.
  - (c) A letter from a practitioner's supervisor on the agency's letterhead, giving the names of the continuing education programs attended, location, dates, subjects taught, and hours of instruction.
- (8) Therapists receiving a new license will not be required to submit for continuing education credit during the first partial year of licensure. Failure to submit verification of continuing education for renewal will result in issuance of a "failure to comply" notification. If the continuing education submitted for credit is deemed by the Committee to be unrelated to the profession of occupational therapy, the applicant will be given three (3) months to earn and submit replacement hours. These hours will be considered as replacement hours and cannot be counted during the next licensure period. If the applicant feels the continuing education credit has been denied inappropriately, the applicant may appeal the issue to the Board for determination within thirty (30) days of the date of receiving notice from the Committee. The Board will be responsible for maintaining all of the records involved in the continuing education requirements set forth in this regulation. The re-registration fee and proof of continuing education completed, as set forth above, shall be presented to the Board and the Committee before or during the birth month of the license holder each year. Failure to re-register and comply with the continuing education requirements by the last day of the birth month of the license holder of that year shall cause the license of the occupational therapist or occupational therapy assistant in question to automatically expire. This requirement becomes effective 1993 with the first submission of continuing education credits being required in January of 1994.

3.4 REINSTATEMENT. Any delinquent license of less than five (5) years may be reinstated, at the discretion of the Board by,

- (A) Paying all delinquent fees and a penalty of Twenty Five and No/100 (\$25.00) Dollars for each year or part of a year he or she has been delinquent, and
- (B) by providing proof of completion of the continuing education requirement for each year, and
- (C) completing the Renewal Application provided by the Board.

Any person who shall fail to re-register and pay the annual license fee for five (5) consecutive years shall be required to make reapplication to the Board before his or her license may be reinstated.

4. REFUSAL, REVOCATION, AND/OR SUSPENSION OF LICENSE. The Board after due notice and hearing may deny or refuse to renew a license, or may suspend or revoke a license, or impose such penalties as provided by the Practice Act, where the licensee or applicant for license has been 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:

- (A) Obtaining a license by means of fraud, misrepresentation or concealment of material facts; or providing false material to the Board at application or renewal.
- (B) Being guilty of unprofessional conduct or gross negligence as defined by rules established by the Committee, or violating the Code of Ethics adopted and published by the Committee;
- (C) Treating, or undertaking to treat, ailments of human beings otherwise than by occupational therapy, as authorized by the Act;
- (D) Being convicted of a crime other than minor offenses defined as "minor misdemeanors", "violations", or "offenses", in any court, except those minor offenses found by the Board to have direct bearing on whether one should be entrusted to serve the public in the capacity of an occupational therapist or occupational therapy assistant;
- (E) Use of any drug or alcohol to an extent that impairs his or her ability to perform the work of an occupational therapist with safety to the public;
- (F) Being adjudged to have a mental condition that renders him or her unable to practice occupational therapy with reasonable skill and safety to patients.

5. FEES. The fees are as follows:

	OT	OTA
A. Application Fee	\$25.00	\$25.00
B. Full License Fee	\$50.00	\$25.00
C. Temporary Permit Fee	\$25.00	\$25.00
D. Reinstatement Fee		

All delinquent fees plus \$25.00 late fee per year for each year delinquent up to five (5) years.

E. Annual Renewal Fee	\$65.00	\$65.00
F. Renewal Late Fee	\$25.00	\$25.00

## 6. DEFINITIONS

6.1 ACT DEFINED. The term Act as used in these rules shall mean the Arkansas State Occupational Therapy Licensing Act 381 of 1977.

6.2 FREQUENT AND REGULAR SUPERVISION DEFINED: As specified in the Occupational Therapy Practice Act 17-88-102, (3) an "occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under the frequent and regular supervision by or in consultation with an occupational therapist whose license is in good standing. "Frequent" and "regular" are defined by the Arkansas State Occupational Therapy Examining Committee as consisting of the following elements:

- (A) The supervising occupational therapist shall have a legal and ethical responsibility to provide supervision, and the supervisee shall have a legal and ethical responsibility to obtain supervision regarding the patients seen by the occupational therapy assistant.
- (B) Supervision by the occupational therapist of the supervisee's occupational therapy services shall always be required, even when the supervisee is experienced and highly skilled in a particular area.
- (C) Frequent/Regular Supervision of an occupational therapy assistant by the occupational therapist is as follows:
  - 1) The supervising occupational therapist shall meet with the occupational therapy assistant for on-site, face to face supervision a minimum of one (1) hour per forty (40) occupational therapy work hours performed by the occupational therapy assistant, to review each patient's progress and objectives.
  - 2) The supervising occupational therapist shall meet with each patient and the occupational therapy assistant providing services on a monthly basis, to review patient progress and objectives.
  - 3) Supervision Log. It is the responsibility of the occupational therapy assistant to maintain on file signed documentation reflecting supervision activities. This supervision documentation shall contain the following: date of supervision, time (start to finish), means of communication, information discussed, number of patients, and outcomes of the interaction. Both the supervising occupational therapist and the occupational therapy assistant must sign each entry.

4) Each occupational therapy assistant will maintain for a period of three (3) years proof of a supervision log, should it be requested by the Board for audit purposes.

(D) The occupational therapists shall assign, and the occupational therapy assistant shall accept, only those duties and responsibilities for which the occupational therapy assistant has been specifically trained and is qualified to perform, pursuant to the judgment of the occupational therapist.

(1) Assessment/reassessment. Patient evaluation is the responsibility of the occupational therapists. The occupational therapy assistant may contribute to the evaluation process by gathering data, and reporting observations. The occupational therapy assistant may not evaluate independently or initiate treatment prior to the occupational therapist's evaluation.

(2) Treatment planning/Intervention. The occupational therapy assistant may contribute to treatment planning as directed by the occupational therapist. The occupational therapist shall advise the patient/client as to which level of practitioner will carry out the treatment plan.

(3) Discontinuation of intervention. The occupational therapy assistant may contribute to the discharge process as directed by the occupational therapist. The occupational therapist shall be responsible for the final evaluation session and discharge documentation.

(E) Before an occupational therapy assistant can assist in the practice of occupational therapy, he or she must file with the Board a signed, current statement of supervision of the licensed occupational therapist(s) who will supervise the occupational therapy assistant. Change in supervision shall require a new status report to be filed with the Board, prior to starting work and when supervision ends.

(F) In extenuating circumstances, when the occupational therapy assistant is without supervision, the occupational therapy assistant may carry out established programs for up to thirty (30) calendar days while appropriate occupational therapy supervision is sought. It shall be the responsibility of the occupational therapy assistant to notify the Board of these circumstances.

(G) Failure to comply with the above will be considered unprofessional conduct and may result in punishment by the Board.

## 6.3 DIRECT SUPERVISION OF AIDES DEFINED.

(A) The occupational therapy aide as defined in 17-88-102 (4) means a person who aids a



licensed occupational therapist or occupational therapy assistant in the practice of occupational therapy, whose activities require an understanding of occupational therapy but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.

- (B) The aide functions with supervision appropriate to the task as determined by the supervisor. This supervision is provided by the occupational therapists or the occupational therapy assistant. The aide is not trained to make professional judgments or to perform tasks that require the clinical reasoning of an occupational therapy practitioner. The role of the aide is strictly to support the occupational therapist or the occupational therapy assistant with specific non-client related tasks, such as clerical and maintenance activities, preparation of a work area or equipment, or with routine client-related aspects of the intervention session.
- (C) Any duties assigned to an occupational therapy aide must be determined and appropriately supervised on-site, in-sight daily by a licensed occupational therapist or occupational therapy assistant and must not exceed the level of training, knowledge, skill and competence of the individual being supervised. Direct client related duties shall require continuous visual supervision by the occupational therapist or the occupational therapy assistant. The Board holds the supervising occupational therapist professionally responsible for the acts or actions performed by any occupational therapy aide supervised by the therapist in the occupational therapy setting.
- (D) Duties or functions which occupational therapy aides shall not perform include the following:
  - (1) Interpreting referrals or prescriptions for occupational therapy services;
  - (2) Performing evaluative procedures;
  - (3) Developing, planning, adjusting, or modifying treatment procedures;
  - (4) Preparing written documentation of patient treatment or progress for the patient's record;
  - (5) Acting independently or without on-site, in-sight supervision of a licensed occupational therapist during patient therapy sessions.
- (E) Direct client related services provided solely by an occupational therapy aide/tech without on-site, in-sight continuous visual supervision by a licensed occupational therapist or an occupational therapy assistant cannot be billed as occupational therapy services.

(F) Failure of licensee to supervise an Aide as described herein will be considered as unprofessional conduct and may result in punishment by the Board.

7. Occupational therapists and occupational therapy assistants should abide by the principles and standards in the current Occupational Therapy Code of Ethics published by the American Occupational Therapy Association.

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**History:** Adopted June 15, 1978; Amended December 11, 1992; March 12, 1993; December 4, 1997; February 1, 2001; April 6, 2001; April 4, 2002; October 6, 2005; June 5, 2014; February 5, 2015, Effective August 17, 2015.