

ARKANSAS REGISTER

Transmittal Sheet



Sharon Priest
Secretary of State
State Capitol Rm. 01
Little Rock, Arkansas 72201-1094

For Office Use Only: Effective Date _____ Code Number 060.00.01--002

Name of Agency ARKANSAS STATE MEDICAL BOARD

Department _____

Contact Person PEGGY CRYER Phone (501) 296-1802

Statutory Authority for Promulgating Rules A.C.A. 17-88-201(c)(1)

	Date
Intended Effective Date	Legal Notice Published <u>12/11/00</u>
<input type="checkbox"/> Emergency	Final Date for Public Comment <u>2/1/01</u>
<input checked="" type="checkbox"/> 10 Days After Filing	Filed With Legislative Council <u>4/23/01</u>
<input type="checkbox"/> Other	Reviewed by Legislative Council <u>6/5/01</u>
_____	Adopted by State Agency <u>2/1/01</u>

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended.



Signature

(501) 296-1802

Phone Number

Executive Secretary

Title

June 19, 2001

Date

FILED

JUL 05 2001

SHARON PRIEST
SECRETARY OF STATE

Y _____

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June 26, 2001

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060.00.01--002

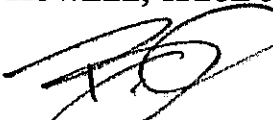
Re: Regulation 6
Governing Occupational Therapists

Dear Ms. Priest:

Enclosed is a completed transmittal sheet of Regulation 6 that was adopted by the Arkansas State Medical Board on February 21, 2001, and a Financial Impact Statement for filing pursuant to Arkansas law.

Respectfully,

HOWELL, TRICE & HOPE, P.A.



William H. Trice, III

WHT:tjs

Enclosure

cc: Ms. Peggy Pryor Cryer

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SHARON PRIEST
SECRETARY OF STATE

REGULATION NO. 6

REGULATIONS 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 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 mailed together with necessary documents and filing fee to the Board. The filing fee is not refundable. Applications and documentation must be completed within six months of date of receipt by the Arkansas State Medical Board. Applications and documentation over six months 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 of 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 BY WAIVER OF EXAMINATION. The Board may waive the examination and grant a license to an occupational therapist (O.T.) or an occupational therapy assistant (OT-A) if the person has:
 - (A) Prior to the effective date of the Act was certified as a registered occupational therapist or an occupational therapy assistant by the American Occupational Therapy Association.
- 3.3 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.
- 3.4 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) contact hours of continuing education 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, especially those designated as provided for occupational therapists. Hour for hour credit on program content only.
 - (2) Professional presentations, workshops, institutes presented by the therapist (same presentation counted only once) and are considered on a hour for hour credit on program content only; five (5) hour maximum per year.

- (3) Formal academic coursework related to the field of occupational therapy. One (1) to two (2) semester hour class equivalent to five (5) contact hours. Three (3) to four (4) semester hour class equivalent to ten (10) contact hours.
- (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.
- (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) hour 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 licensees shall submit documentation of completion of continuing education experiences, upon renewal of the license. Acceptable documentation 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 leader 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 requirements are not met within ten days of receipt of the notification, disciplinary action may be taken. 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 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 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.

3.5 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 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 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 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 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	\$50.00	\$50.00
All delinquent fees plus \$25.00 late fee per year for each year delinquent up to five (5) years.		
E. Annual Renewal Fee	\$50.00	\$50.00
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 being treated by the occupational therapy assistant on a monthly basis, to review patient progress and objectives.
- (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 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.

(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 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) Services provided by an Occupational Therapy Aide cannot be billed as Occupational Therapy.

(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. PRINCIPLES OF OCCUPATIONAL THERAPY ETHICS OF THE AMERICAN OCCUPATIONAL THERAPY ASSOCIATION.

The Occupational Therapy Examining Committee has adopted the statement on ethics of the American Occupational Therapy Association as the standard of ethical practice for Occupational Therapists and Occupational Therapy Assistants licensed in the state of Arkansas. A violation of these principles and code of ethics will be considered as unprofessional conduct and may result in disciplinary action by the Board, as defined in the practice act and the administrative procedure act.

The American Occupational Therapy Association's Code of Ethics is a public statement of the values and principles used in promoting and maintaining high standards of behavior in occupational therapy. The American Occupational Therapy Association and its members are committed to furthering people's ability to function within their total environment. To this end, occupational therapy personnel provide services for individuals in any stage of health and illness, to institutions, to other professionals and colleagues, to students, and to the general public.

The Occupational Therapy Code of Ethics, is a set of principles that applies to occupational therapy personnel at all levels. The roles of the practitioner (occupational therapist and occupational therapy assistant), educator, fieldwork educator, supervisor, administrator, consultant, fieldwork coordinator, faculty program director, researcher/scholar, entrepreneur, student, support staff, and occupational therapy aide are assumed.

Principle 1. Occupational therapy personnel shall demonstrate a concern for the well-being of the recipients of their services (beneficence).

(A) Occupational therapy personnel shall provide services in an equitable manner for all individuals.

(B) Occupational therapy personnel shall maintain relationships that do not exploit the recipient of services sexually, physically, emotionally, financially, socially or in any other manner.

Occupational therapy personnel shall avoid those relationships or activities that interfere with professional judgment and objectivity.

(C) Occupational therapy personnel shall take all reasonable precautions to avoid harm to the recipient of services or to his or her property.

~~(D) Occupational therapy personnel shall strive to ensure that fees are fair, reasonable, and commensurate with the service performed and are set with due regard for the service recipient's ability to pay.~~

Principle 2. Occupational therapy personnel shall respect the rights of the recipients of their service (e.g. autonomy, privacy, confidentiality).

(A) Occupational therapy personnel shall collaborate with service recipients or their surrogate(s) in determining goals and priorities throughout the intervention process.

(B) Occupational therapy personnel shall fully inform the service recipients of the nature, risks, and potential outcomes of any interventions.

(C) Occupational therapy personnel shall obtain informed consent from subjects involved in research activities indicating they have been fully advised of the potential risks and outcomes.

(D) Occupational therapy personnel shall respect the individual's right to refuse professional services or involvement in research or educational activities.

(E) Occupational therapy personnel shall protect the confidential nature of information gained from educational, practice, research and investigation activities.

Principle 3. Occupational therapy personnel shall achieve and continually maintain high standards of competence (duties).

(A) Occupational therapy practitioners shall hold the appropriate national and state credentials for providing services.

(B) Occupational therapy personnel shall use procedures that conform to the Standards of Practice of the American Occupational Therapy Association.

(C) Occupational therapy personnel shall take responsibility for maintaining competence by participating in professional development and educational activities.

(D) Occupational therapy personnel shall perform their duties on the basis of accurate and current information.

(E) Occupational therapy practitioners shall protect service recipients by ensuring that duties assumed by or assigned to other occupational therapy personnel are commensurate with their qualifications and experience.

(F) Occupational therapy practitioners shall provide appropriate supervision to individuals for whom the practitioners have supervisory responsibility.

(G) Occupational therapists shall refer recipients to other service providers or consult with other service providers when additional knowledge and expertise are required.

Principle 4. Occupational therapy personnel shall comply with laws and Association policies guiding the profession of occupational therapy (justice).

(A) Occupational therapy personnel shall understand and abide by applicable Association policies; local, state, and federal laws; and institutional rules.

(B) Occupational therapy personnel shall inform employers, employees, and colleagues about those laws and Association policies that apply to the profession of occupational therapy.

(C) Occupational therapy practitioners shall require those they supervise in occupational therapy related activities to adhere to the Code of Ethics.

(D) Occupational therapy personnel shall accurately record and report all information related to professional activities.

History: Adopted June 15, 1978; Amended December 11, 1992; March 12, 1993; December 4, 1997; February 2, 2001; April 6, 2001

DEPARTMENT Arkansas State Medical Board
DIVISION _____
PERSON COMPLETING THIS STATEMENT Peggy Cryer
TELEPHONE NO. (501) 296-1802 FAX NO. (501) 296-1805

AMENDED FINANCIAL IMPACT STATEMENT

To comply with Act 884 of 1995, please complete the following Financial Impact Statement and file with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Regulation 6-Occupational Therapists

1. Does this proposed, amended, or repealed rule or regulation have a financial impact? Yes _____ No xx

2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.

N/A

3. If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation.

N/A

2001-02 Fiscal Year

2002-03 Fiscal Year

General Revenue _____

General Revenue _____

Federal Funds _____

General Funds _____

Cash Funds _____

Cash Funds _____

Special Revenue _____

Special Revenue _____

Other _____

Other _____

4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulation?

Increase the renewal fees from \$25.00 to \$50.00 per year for Occupational Therapists.

2001-02 Fiscal Year

2002-03 Fiscal Year

5. What is the total estimated cost by fiscal year to the agency to implement this regulation?

There is no increased cost above the original enabling statute which placed the occupational therapists under the Arkansas State Medical Board. There is no increased cost as a result of this regulation.

2001-02 Fiscal Year

2002-03 Fiscal Year

July 28, 1995

FILED

JUL 05 2001

SHARON PRIEST
SECRETARY OF STATE