

# 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 060.00.99-006

Name of Agency Arkansas State Medical Board

Department \_\_\_\_\_

Contact Person Peggy Pryor Cryer Phone (501) 296-1802

Statutory Authority for Promulgating Rules Arkansas Code Annotated §17-80-104 and Arkansas Code Annotated §17-93-303(1)

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<u>1-4-98</u>	Adopted by State Agency . . . . .	<u>12-4-97</u>

### CERTIFICATION OF AUTHORIZED OFFICER

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

*Peggy Pryor Cryer*  
Signature

501 296-1802  
Phone Number

Executive Secretary  
Title

11-9-99  
Date

BY \_\_\_\_\_  
SHARON PRIEST  
SECRETARY OF STATE  
STATE OF ARKANSAS  
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November 18, 1999

Sharon Priest  
Secretary of State  
State Capitol Room 01  
Little Rock, AR 72201-1094

Re: Regulation 6 - Occupational Therapists

Dear Ms. Priest:

Enclosed is a Regulation that was adopted by the Arkansas State Medical Board involving Occupational Therapists as well as a completed Arkansas Register Transmittal Sheet.

Respectfully,

HOWELL, TRICE & HOPE, P.A.



William H. Trice, III  
WHT:nb  
Enclosure

cc: Ms. Peggy Pryor Cryer

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REGULATION NO. 6

REGULATIONS GOVERNING THE  
LICENSING AND PRACTICE OF  
OCCUPATIONAL THERAPISTS

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STATE OF ARKANSAS  
BY

1. APPLICATION FOR LICENSURE. Any person who plans to practice as a licensed occupational therapist 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 TIME AND PLACE OF FILING. Completed applications shall be mailed together with necessary documents and filing fee to the Board at least 30 days prior to the date of the examination and 60 days prior to the next scheduled meeting of the Board. Applications filed after the deadline will be considered at the next quarterly meeting of the Board. The filing fee is not refundable.
- 1.3 BOARD ACTION ON APPLICANTS. Applications for examination shall be acted upon by the Board at its next regularly scheduled general meeting following the receipt of the requisite fee and all credentials. Applicants qualifying for the examination will be notified as to the examination process and fee.
2. EXAMINATION. All occupational therapists are required to pass an examination, approved by the Board, for license to practice the profession in Arkansas, except as otherwise provided in Sections 9, 10.2 and 12 of the act. The Board has adopted for this purpose the examination administered by the National Board for the Certification of Occupational Therapy for the certification of occupational therapists and occupational therapy assistants.
- 2.1 TIME AND SUPERVISION. Applicants for licensure shall be examined for licensure at a time and under supervision as the Board may determine. For this purpose the Board shall follow the schedule and format set by the National Board for the Certification of Occupational Therapy and its designated agent.
- 2.2 FREQUENCY AND PLACE. Examination shall be given at least twice a year at such a place in the state as may be determined by the National Board for the Certification of Occupational Therapy, upon approval of the Board. Reasonable public notice of such examination shall be given by the National Board for the Certification of Occupational Therapy at least sixty (60) days prior to its administration. Issuance of such public notice shall be verified by the Board.
- 2.3 PASSING SCORE. The Board shall establish as the standard for acceptable performance for each examination that score designated as passing by the National Board for the Certification of Occupational Therapy. Applicants may obtain their examination scores in accordance with such rules as the National Board for the Certification of Occupational Therapy may establish, upon approval of the Board.
- 2.4 RE-EXAMINATION. An applicant who fails an examination may make reapplication for re-examination accompanied by the prescribed fee. Any applicant who fails three (3) examinations must take additional educational work in the areas of his weakness as deemed necessary by the Board before being eligible for re-examination.
3. LICENSING. All occupational therapists must be licensed to practice in the state of Arkansas.
- 3.1 BY EXAMINATION. The Board shall register as an occupational therapist and shall issue a license to any person who satisfactorily passes the said examination provided for in the Act, and who otherwise meets the requirements for qualification contained herein and pays a fee as determined by the Board.
- 3.2 BY WAIVER OR EXAMINATION. The Board shall waive the examination and grant a license as an occupational therapist registered (O.T.R.) or any person who:
  - (a) Applies for licensure on or before July 1, 1978, and
  - (b) Prior to the effective date of the Act was certified as an occupational therapist registered by the American Occupational Therapy Association, or,
  - (c) Has graduated from an accredited baccalaureate or master's degree or advanced standing certificate program in occupational therapy and has been practicing occupational therapy in the state of Arkansas for at least one (1) year prior to the effective date of the Act.
- 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 who are required to be licensed in order to obtain employment as an occupational therapist. 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 secretary of the Board.

3.4

**RECIPROCITY.** A licensed occupational therapist who has been issued a license to practice occupational therapy in another state or territory whose requirements for registration and licensure were equal at the time of his registration to the requirements in the Act may be registered and issued a license by the Board, provided the state or territory from which the applicant comes accords a similar privilege of registration and licensure to persons registered and licensed by the Board of the state of Arkansas. The issuance of such license by reciprocity by the Board shall be at the sole discretion of the Board, and the Board may provide such rules and regulations governing such admission as it may deem necessary or desirable. Any occupational therapist who has been certified by the American Occupational Therapy Association and who has been in continuous practice for the past five years and who comes to Arkansas from a state presently not granting reciprocity or from a state not requiring licensing shall be eligible for licensing in Arkansas.

3.5

**RENEWAL.**

(a) A renewal or re-registration fee of \$25.00 shall be paid to the Committee by each occupational therapist and occupational therapy assistant who holds a license to practice occupational therapy in the State of Arkansas.

(b) 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). Hour for hour credit; five (5) hour maximum per year.
- (3) Formal academic course work. 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 by November 30 prior to the expiration of the license.
- (5) Self-study.

(a) Book or journal review. Must be verified by submission of a one (1) page typewritten review of the material studied. One (1) hour credit per review; two (2) hour maximum per year.

(b) Self-study course work 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 by November 30 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 by October 31 prior to the expiration of the license.

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:

- (1) Official transcripts documenting completion of academic course work.
- (2) Assigned certification 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 transcripts accompanied by a brochure, agenda, program or other applicable information indicating the program content.

(3) A letter from a sponsoring institution on the agency's letterhead, giving the name of the program, location, dates, subjects taught, and hours of instruction.

Credit for excess hours earned in one year may be used for the following calendar year, up to ten hours. 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 irrelevant 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 a 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 in question to automatically expire.

This requirement becomes effective 1993 with the first submission of continuing education credits being required in January of 1994.

3.6 **REINSTATEMENT.** Any delinquent license of less than five (5) years may be reinstated by paying all delinquent fees and a penalty of Ten and No/100 (\$10.00) Dollars for each year or part of a year he has been delinquent. Any person who shall fail to re-register and pay the annual license fee for five (5) consecutive years shall be required to be re-examined by the Board before his license may be reinstated.

3.7 **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, 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;
- (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 if the acts for which he was convicted are found by the Board to have direct bearing on whether he should be entrusted to serve the public in the capacity of an occupational therapist;
- (e) Use of any narcotic 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.

4. **FEES.** The fees are as follows:

	OTR	OTA
1. Application for license	\$50.00	\$25.00
2. Application for license by reciprocity	\$50.00	\$25.00
3. Application for license by waiver of examination	\$50.00	\$25.00
4. Application for a temporary license	\$25.00	\$25.00
5. Reinstatement fee: All delinquent fees plus \$10.00 per year for all years delinquent.	\$25.00	\$25.00
6. Annual renewal fee	\$25.00	\$25.00

5. **DEFINITIONS**

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

5.2 **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 with 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:

1. The supervising OT shall meet with the OTA for on-site, face to face supervision a minimum of one (1) hour per forty (40) occupational therapy work hours performed by the OTA.
2. The supervising OT must be accessible by telecommunications to the OTA on a daily basis while the OTA is treating patients/clients.
3. The supervising OT must meet with each patient who has been referred to an OTA at least once each month or every sixth (6) session, whichever comes first.
4. The supervising OT 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 OTA. Supervision by the OT of the supervisee's occupational therapy services shall always be required, even when the supervisee is experienced and highly skilled in a particular area.
5. The OT shall assign and the OTA shall accept only those duties and responsibilities for which the OTA has been specifically trained and is qualified to perform, pursuant to the judgement of the OT.

- (a) **Assessment/reassessment.** Patient evaluation is the responsibility of the OT. The OTA may contribute to the evaluation process by gathering data, and reporting observations. The OTA may not evaluate independently or initiate treatment prior to the OT's evaluation.

- (b) Treatment planning/Intervention. The OTA may contribute to treatment planning as directed by the OT. The OT shall advise the patient/client as to which level of practitioner will carry out the treatment plan.
- (c) Discontinuation of intervention. The OTA may contribute to the discharge process as directed by the OT. The OT shall be responsible for the final evaluation session and discharge documentation.

6. In extenuating circumstances, when the OTA is without supervision, the OTA 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 OTA to notify the board of these circumstances.
7. Before an occupational therapy assistant assists in the practice of occupational therapy, he/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. The signature(s) of the supervising occupational therapist(s) must be authorized.
8. A supervisor who is temporarily (between one (1) and thirty (30) days) unable to provide supervision shall arrange for substitute supervision by an occupational therapist currently licensed by the Board. The substitute shall provide supervision that is as thorough as that provided by the permanent supervisor. All other circumstances of change in supervision shall require a new status report to be filed with the board.

### 5.3

#### DIRECT SUPERVISION OF AIDES DEFINED:

- (1) An occupational therapy aide is an unlicensed person who assists in the practice of occupational therapy, who works under the direct daily on-site in sight supervision of a licensed occupational therapist, and 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. An occupational therapy aide is a worker who is trained on the job to meet the specific needs of the facility.
- (2) A licensed occupational therapist may delegate to an occupational therapy aide only specific tasks which are neither evaluative, assessive, task selective, or recommending in nature, and only after insuring the aide has been appropriately trained for the performance of the task. The OT shall advise the patient of the level of OT personnel performing tasks.
- (3) Any duties assigned to an occupational therapy aide must be determined and appropriately supervised daily by a licensed occupational therapist and must not exceed the level of training, knowledge, skill and competence of the individual being supervised. 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.
- (4) Duties or functions which occupational therapy aides shall not perform include the following:
- Interpreting referrals or prescriptions for occupational therapy services;
  - Performing evaluative procedures;
  - Developing, planning, adjusting, or modifying treatment procedures;
  - Preparing written documentation of patient treatment or progress for the patients record;
  - Acting independently or without on site, in sight supervision of a licensed occupational therapist during patient therapy sessions.

### 6.

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

**PREAMBLE:** This association and its component members are committed for furthering man's ability to function fully within his total environment. To this end the occupational therapist renders service to clients in all stages of health and illness, to institutions, other professionals, colleagues, students, and to the general public.

In furthering this commitment the American Occupational Therapy Association has established the Principles of Occupational Therapy Ethics. It is intended that they be used by all occupational therapy personnel, including practitioners in all settings, administrators, educators, and students. These principles should be reflected in and supported by licensing laws, regulations, consultation, planning, and teaching. They are intended to be action oriented, guiding and preventive rather than negative or merely disciplinary. However, it is intended that these principles are only for internal use by the American Occupational Therapy Association as a guide to appropriate conduct of its members, and is not intended as a definition for patients or clients of a standard of care expected in any community. Professional maturity will be demonstrated in applying these basic principles while exercising the large measure of freedom which they provide and which is essential to responsible and creative occupational therapy service. For the purpose of continuity, the following definitions will support information in this document: Occupational therapist includes registered occupational therapists, certified occupational therapy assistants, and occupational therapy students. Clients include patients and

those to whom occupational therapy services are delivered.

- 6.1 **RELATED TO THE RECIPIENT OF SERVICE.** The occupational therapist demonstrates a beneficent concern for the recipient of services and maintains a goal-directed relationship with the recipient which furthers the objectives for which it is established. Services are evaluated against objectives and accountability is maintained therefore. Respect shall be shown for the recipients' rights and the occupational therapist will preserve the confidence of the patient relationship.
- 6.2 **RELATED TO COMPETENCE.** The occupational therapist shall actively maintain and improve one's professional competence, represent it accurately, and function within its perimeters.
- 6.3 **RELATED TO RECORDS, REPORTS, GRADES, AND RECOMMENDATIONS.** The occupational therapist shall conform to local, state and federal laws and regulations, and regulations applicable to records and reports. The occupational therapist abides by the employing institution's rules. Objective data shall govern subjective data in evaluations, grades, recommendations, records, and reports.
- 6.4 **RELATED TO INTRA-PROFESSIONAL COLLEAGUES.** The occupational therapist shall function with discretion and integrity in relations with other members of the profession and shall be concerned with the quality of their services. Upon becoming aware of objective evidence that a breach of ethics or substandard service, the occupational therapist shall take action according to established procedure.
- 6.5 **RELATED TO OTHER PERSONNEL.** The occupational therapist shall function with discretion and integrity in relations with personnel and cooperate with them as may be appropriate. Similarly, the occupational therapist expects others to demonstrate a high level of competence. Upon becoming aware of objective evidence of a breach of ethics or substandard service, the occupational therapist shall take action according to established procedure.
- 6.6 **RELATED TO EMPLOYERS AND PAYERS.** The occupational therapist shall render service with discretion and integrity and shall protect the property and property rights of the employers and payers.
- 6.7 **RELATED TO EDUCATION.** The occupational therapist implements a commitment to the education of society and the consumer of health services as well as to the education of health personnel on matters of health which are within the purview of occupational therapy.
- 6.8 **RELATED TO EVALUATION AND RESEARCH.** The occupational therapist shall accept responsibility for evaluating, developing, and refining service and the body of knowledge and skills which underlie the education and practice of occupational therapy and at all times protects the rights of subjects, clients, institutions, and collaborators. The work of others shall be acknowledged.
- 6.9 **RELATED TO THE PROFESSION.** The occupational therapist shall be responsible for gaining information and understanding of the principles, policies, and standards of the profession. The occupational therapist functions as a representative of the profession.
- 6.10 **RELATED TO THE LAW AND REGULATIONS.** The occupational therapist shall seek to acquire information about applicable local, state, federal, and institutional rules and shall function according thereto.
- 6.11 **RELATED TO CONDUCT.** The occupational therapist shall not appear to act with impropriety nor engage in illegal conduct involving moral turpitude and will not circumvent the principles of occupational therapy ethics through actions of another.
- 6.12 **RELATED TO BIOETHICAL ISSUES AND PROBLEMS OF SOCIETY.** The occupational therapist seeks information about the major health problems and issues to learn their implications for occupational therapy and for one's own services.

History: Adopted June 15, 1978; Amended December 11, 1992, March 12, 1993.