

Department of Health  
Notice of Rulemaking Hearing  
Board of Occupational and Physical Therapy Examiners  
Committee of Occupational Therapy  
Division of Health Related Boards

There will be a hearing before the Tennessee Board of Occupational and Physical Examiners' Committee of Occupational Therapy to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-13-108. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Division of Health Related Board's Conference Room on the Third Floor of the Heritage Place Building located at 227 French Landing, Nashville, TN at 2:30 p.m. (CDT) on the 26th day of October, 2006.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (615) 532-4397.

Substance of Proposed Rules

Amendments

Rule 1150-2-.01, Definitions, is amended by deleting paragraphs (22) and (24) in their entirety and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. § 4-5-202, 4-5-204, and 63-13-108.

Rule 1150-2-.01, Definitions, is amended by inserting the following definition as new, appropriately alphabetized and numbered paragraphs:

- ( ) Occupations - Everyday life activities, named, organized, and given value and meaning by individuals and their culture. The term includes everything that

people do to occupy their time, including caring for their needs, enjoying life, and contributing to the social and economic fabric of their communities.

- ( ) Unlicensed person – A person who performs specific supportive tasks related to occupational therapy practice under the direct supervision of an occupational therapist or an occupational therapy assistant and whose activities do not require professional or advanced training in the basic anatomical, biological, psychological and social sciences involved in the provision of occupational therapy services. Such persons are often referred to as aides, technicians, transporters or support staff.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-13-103, 63-13-108, and Public Chapter 765 of the Public Acts of 2006.

Rule 1150-2-.02, Scope of Practice, is amended by deleting paragraph (2) in its entirety and substituting instead the following language, and is further amended by inserting the following language as new paragraphs (3), (4) (5) and (6), and renumbering the present paragraph (3) as paragraph (7), so that as amended, the new paragraphs (2), (3), (4), (5) and (6) shall read:

- (2) The Committee adopts for licensed occupational therapists and occupational therapy assistants, as if fully set out herein, and as it may from time to time be amended, the current “Occupational Therapy Code of Ethics” issued by the American Occupational Therapy Association and the code of ethics approved by the National Board for Certification in Occupational Therapy, except to the extent that it conflicts with the laws of the state of Tennessee or the rules of the Committee. If the code of ethics conflicts with state law or rules, the state law or rules govern the matter. Information to acquire copies may be obtained by contacting the following:

- (a) 

The American Occupational Therapy Association, Inc. 4720 Montgomery Lane PO Box 31220 Bethesda, MD 20824-1220 Telephone: (301) 652-2682 Fax: (301) 652-7711 TDD: (800) 377-8555 Internet: <a href="http://www.aota.org">www.aota.org</a>	The National Board for Certification in Occupational Therapy, Inc. 800 South Frederick Ave. Suite 200 Gaithersburg, MD 20877-4150 Telephone (301) 990-7979 Fax (301) 869-8492 Internet : <a href="http://www.nbcot.org">www.nbcot.org</a>
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- (b) Tennessee Board of Occupational and Physical Therapy Examiners  
Committee of Occupational Therapy  
227 French Landing, Suite 300  
Heritage Place, MetroCenter  
Nashville, TN 37243

Telephone: (615) 532-3202 ext. 25135  
Telephone: (800) 778-4123 ext. 25135  
Fax: (615) 532-5164  
Internet: [www.tennessee.gov/health](http://www.tennessee.gov/health)

- (3) “Occupational therapy practice” means the therapeutic use of everyday life activities (occupations) for the purpose of enabling individuals or groups to participate in roles and situations in home, school, workplace, community and other settings. Occupational therapy addresses the physical, cognitive, psychosocial and sensory aspects of performance in a variety of contexts to support engagement in occupations that affect health, well-being and quality of life. Occupational therapy practice includes, but is not limited to:
- (a) The screening, evaluation, assessment, planning, implementation and discharge planning of an occupational therapy program or services in consultation with the client, family members, caregivers and other appropriate persons;
  - (b) Selection and administration of standardized and non-standardized tests and measurements to evaluate factors affecting activities of daily living, instrumental activities of daily living, education, work, play, leisure and social participation, including:
    - (i) Body functions and body structures;
    - (ii) Habits, routines, roles and behavior patterns;
    - (iii) Cultural, physical, environmental, social and spiritual context and activity demands that affect performance; and
    - (iv) Performance skills, including motor, process and communication/interaction skills;
  - (c) Methods or strategies selected to direct the process of interventions, such as:
    - (i) Modification or adaptation of an activity or the environment to enhance performance;
    - (ii) Establishment, remediation or restoration of a skill or ability that has not yet developed or is impaired;
    - (iii) Maintenance and enhancement of capabilities without which performance in occupations would decline;

- (iv) Health promotion and wellness to enable or enhance performance and safety of occupations; and
  - (v) Prevention of barriers to performance, including disability prevention;
- (d) Interventions and procedures to promote or enhance safety and performance in activities of daily living, instrumental activities of daily living, education, work, play, leisure and social participation, including:
- (i) Therapeutic use of occupations, exercises and activities;
  - (ii) Training in self-care, self-management, home management and community/work reintegration;
  - (iii) Development, remediation or compensation of physical, cognitive, neuromuscular and sensory functions and behavioral skills;
  - (iv) Therapeutic use of self, including an individual's personality, insights, perceptions and judgments as part of the therapeutic process;
  - (v) Education and training of individuals, family members, caregivers and others;
  - (vi) Care coordination, case management, discharge planning and transition services;
  - (vii) Consulting services to groups, programs, organizations or communities;
  - (viii) Assessment, recommendations and training in techniques and equipment to enhance functional mobility, including wheelchair management;
  - (ix) Driver rehabilitation and community mobility; and
  - (x) Management of feeding and eating skills to enable feeding and eating performance;
- (e) Management of occupational therapy services, including the planning, organizing, staffing, coordinating, directing or controlling of individuals and organizations;
- (f) Providing instruction in occupational therapy to students in an accredited occupational therapy or occupational therapy assistant educational

program by persons who are trained as occupational therapists or occupational therapy assistants; and

- (g) Administration, interpretation and application of research to occupational therapy services.
- (4) Occupational therapy services are provided for the purpose of promoting health and wellness to those clients who have, or are at risk of developing, illness, injury, disease, disorder, impairment, disability, activity limitation or participation restriction and may include:
- (a) Training in the use of prosthetic devices;
  - (b) Assessment, design, development, fabrication, adaptation, application, fitting and training in the use of assistive technology and adaptive and selective orthotic devices;
  - (c) Application of physical agent modalities with proper training and certification;
  - (d) Assessment and application of ergonomic principles;
  - (e) Adaptation or modification of environments (home, work, school or community) and use of a range of therapeutic procedures (such as wound care management, techniques to enhance sensory, perceptual and cognitive processing, and manual therapy techniques) to enhance performance skills, occupational performance or the promotion of health and wellness.
- (5) Occupational therapy practice may occur in a variety of settings, including, but not limited to:
- (a) Institutional inpatient settings, such as acute rehabilitation facilities, psychiatric hospitals, community and specialty hospitals, nursing facilities and prisons;
  - (b) Outpatient settings, such as clinics, medical offices and therapist offices;
  - (c) Home and community settings, such as homes, group homes, assisted living facilities, schools, early intervention centers, daycare centers, industrial and business facilities, hospices, sheltered workshops, wellness and fitness centers and community mental health facilities;
  - (d) Research facilities; and
  - (e) Educational institutions.

- (6) Occupational therapy practice includes specialized services provided by occupational therapists or occupational therapy assistants who are certified or trained in areas of specialization, which include, but are not limited to, hand therapy, neurodevelopmental treatment, sensory integration, pediatrics, geriatrics and neurorehabilitation, through programs approved by AOTA or other nationally recognized organizations;

Authority: T.C.A. § 4-5-202, 4-5-204, 63-13-103, 63-13-108, 63-13-209, and Public Chapter 765 of the Public Acts of 2006.

Rule 1150-2-.04, Qualifications for Licensure, is amended by deleting paragraphs (1) and (2) in their entirety and substituting instead the following language, and is further amended by deleting subparagraph (3) (c) but not its parts and substituting instead the following language, so that as amended, the new paragraphs (1) and (2), and the new subparagraph (3) (c) but not its parts shall read:

- (1) To qualify for licensure as an occupational therapist, an applicant must:
  - (a) Be of good moral character;
  - (b) Have successfully completed the academic requirements of an educational program in occupational therapy accredited by the Accreditation Council for Occupational Therapy Education (ACOTE) or its predecessor organization;
  - (c) Have successfully completed the supervised fieldwork experience required by ACOTE; and
  - (d) Pass the National Board for Certification in Occupational Therapy Examination administered by the National Board for Certification in Occupational Therapy; or be eligible for licensure as provided in T.C.A. § 63-13-213.
- (2) To be eligible for licensure as an occupational therapy assistant, an applicant must:
  - (a) Be of good moral character;
  - (b) Have successfully completed the academic requirements of an educational program in occupational therapy accredited by the Accreditation Council for Occupational Therapy Education (ACOTE) or its predecessor organization;
  - (c) Have successfully completed the supervised fieldwork experience required by ACOTE; and

- (d) Pass the National Board for Certification in Occupational Therapy Examination administered by the National Board for Certification in Occupational Therapy; or be eligible for licensure as provided in T.C.A. § 63-13-213.

(3) (c) Training. The continuous supervision of students who are training to be certified in the use of physical agent modalities is required at all times. Such supervision shall only be provided by an occupational therapist who is currently licensed in Tennessee and is currently certified in Tennessee in the use of physical agent modalities.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-13-103, 63-13-108, 63-13-202, 63-13-203, 63-13-206, 63-13-213, and Public Chapter 765 of the Public Acts of 2006.

Rule 1150-2-.05, Procedures for Licensure, is amended by deleting subparagraph (1) (i) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (i) shall read:

- (i) Physical agent modality certification. If an applicant is seeking certification in the use of physical agent modalities, as provided in paragraph (3) of rule 1150-2-.04, the applicant shall cause to have proof of successful training completion be submitted directly from the training provider to the Committee's administrative office.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-13-103, 63-13-108, 63-13-202, and 63-13-213.

Rule 1150-2-.06, Fees, is amended by deleting subparagraph (1) (d) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraphs (1) (j) and (4) (j), so that as amended, the new subparagraphs (1) (d), (1) (j), and (4) (j) shall read:

(1) (d) Limited Permit Fee - A nonrefundable fee to be paid when an individual requests a limited permit.

(1) (j) Inactive License Fee – A nonrefundable fee to be paid each time a licensee requests an Inactive License, and every two (2) years thereafter until reactivation is requested.

(4) (j) Inactive License (biennial) \$ 25.00      \$ 25.00

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-13-108, 63-13-204, 63-13-205, 63-13-215, and Public Chapter 765 of the Public Acts of 2006.

Rule 1150-2-.10, Supervision, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) Supervision of an unlicensed person shall be as follows:
- (a) There shall be close supervision with daily, direct contact at site of treatment, which demands the physical presence of a licensed physician, Occupational Therapist or Occupational Therapy Assistant, whenever the unlicensed person assists in the practice of Occupational Therapy.
  - (b) There shall be personal instruction, observation and evaluation by the licensed physician, Occupational Therapist or Occupational Therapy Assistant.
  - (c) There shall be specific delineation of tasks and responsibilities by the licensed physician, Occupational Therapist or Occupational Therapy Assistant who is responsible for reviewing and interpreting the results of care. The licensed physician, Occupational Therapist or Occupational Therapy Assistant must ensure that the unlicensed person does not perform duties for which he is not trained.
1. A licensed physician, Occupational Therapist or Occupational Therapy Assistant may delegate to unlicensed persons specific routine tasks associated with nontreatment aspects of occupational therapy services which are neither evaluative, assessive, task selective, or recommending in nature, nor which require decision-making or making occupational therapy entries in official patient records, if the following conditions are met:
- (i) The licensed physician, Occupational Therapist or Occupational Therapy Assistant accepts professional responsibility for the performance of that duty by the personnel to whom it is delegated. In the case of duties delegated by a OTA, the licensed physician, Occupational Therapist or Occupational Therapy Assistant who supervises the technician will be responsible; and
  - (ii) The unlicensed personnel do not perform any duties which require licensure under this act; and
  - (iii) The licensed physician, Occupational Therapist or Occupational Therapy Assistant ensures that the unlicensed personnel have been appropriately trained for the performance of the tasks.

2. Tasks which may be delegated may include:
  - (i) Transporting of patients;
  - (ii) Preparing or setting up a work area or equipment;
  - (iii) Routine department maintenance or housekeeping activities;
  - (iv) Taking care of patients' personal needs during treatments;  
and
  - (v) Clerical, secretarial or administrative duties.
- (d) Appropriate records must be maintained to document compliance. The licensed physician, Occupational Therapist or Occupational Therapy Assistant must countersign all unlicensed person's documentation.
- (e) The intensity of the supervision is determined by the nature of the task to be performed, the needs of the consumer, and the capability of the unlicensed person.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-13-103, 63-13-108, 63-13-207, and Public Chapter 765 of the Public Acts of 2006.

Rule 1150-2-.11, Retirement and Reactivation of License, is amended by inserting the following language as new paragraph (4) and renumbering the current paragraph (4) as paragraph (5):

- (4) Licensees may place their licenses on inactive status by filing the appropriate form with the Committee and by paying the biennial Inactive License fee as provided in Rule 1150-2-.06. If the licensee thereafter reengages in active practice in Tennessee, such licensee shall apply for relicensure (reactivation) and shall meet the continued competence education requirements as provided in Rule 1150-2-.12.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-13-108, 63-13-204, 63-13-215, and Public Chapter 765 of the Public Acts of 2006.

Rule 1150-2-.12, Continued Competence, is amended by deleting paragraph (13) but not its subparagraphs, and substituting instead the following language, and is further amended by deleting subparagraph (13) (a) in its entirety and substituting instead the following language, and is further amended by deleting subparagraph (13) (b) but not its

parts, and substituting instead the following language, and is further amended by deleting part (13) (b) 1. in its entirety and substituting instead the following language, so that as amended, the new paragraph (13) but not its subparagraphs, the new subparagraph (13) (a), the new subparagraph (13) (b) but not its parts, and the new part (13) (b) 1. shall read:

(13) Reinstatement/Reactivation of an Expired, Retired or Inactive License.

(13) (a) Expired, retired, or inactive for three (3) years or less - An individual whose license has expired, or has been retired or inactive for three (3) years or less shall submit the appropriate application and documentation of continued competence, as provided in paragraph (12), for the two (2) year period that precedes the reinstatement/reactivation year.

(13) (b) Expired, retired or inactive more than three (3) years

(13) (b) 1. An individual whose license has expired, or has been retired or inactive for more than three (3) years shall submit the appropriate application and documentation of continued competence, as provided in paragraph (12), for the two (2) year period that precedes the reinstatement/reactivation year; and

Authority: T.C.A. § 4-5-202, 4-5-204, 63-13-108, 63-13-204, 63-13-215, and Public Chapter 765 of the Public Acts of 2006.

Rule 1150-2-.14, Limited Permit, is amended by adding the following introductory language, and is further amended by deleting paragraphs (1), (2), (3) and (4) in their entirety and substituting instead the following language, so that as amended, the new introductory language and the new paragraphs (1), (2), (3), and (4) shall read:

1150-2-.14 Limited Permit. A limited permit may be issued by the Committee to applicants for licensure as an occupational therapist or occupational therapy assistant who have paid the Limited Permit Fee required by Rule 1150-2-.06, and have successfully completed the educational and field experience requirements of paragraphs (1) or (2) of Rule 1150-2-.04, and are scheduled to take the examination required by Rule 1150-2-.08. Applicants for licensure who have been issued a limited permit may practice occupational therapy only under supervision of a licensed occupational therapist, as provided in Rule 1150-2-.10.

(1) An applicant who has received a limited permit must take the examination within ninety (90) days of the date the applicant received the limited permit. If the applicant does not take the examination within the ninety (90) day period, the limited permit expires at the end of the ninety (90) day period.

- (2) If an applicant passes the examination, the applicant's limited permit remains effective until the Committee grants or denies a license to the applicant.
- (3) If an applicant fails the examination, the applicant's limited permit expires upon the Committee's receipt of notice that the applicant failed the examination.
- (4) An applicant may obtain only one (1) limited permit. The limited permit is non-renewable.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-13-108, 63-13-202, 63-13-203, 63-13-205, 63-13-206, and Public Chapter 765 of the Public Acts of 2006.

Rule 1150-2-.15, Disciplinary Actions, Civil Penalties, and Screening Panels, is amended by deleting paragraph (6) in its entirety and substituting instead the following language, so that as amended, the new paragraph (6) shall read:

- (6) Reconsiderations and Stays - The Committee authorizes the member who chaired the Committee for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-13-105, 63-13-108, and 63-13-209.

Rule 1150-2-.19, Committee Meetings, Officers, Consultants, Records, and Declaratory Orders, is amended by deleting subparagraph (6) (b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (6) (b) shall read:

- (6) (b) Recommend whether and under what terms a complaint, case or disciplinary action might be settled. Any matter proposed for settlement must be subsequently ratified by the full Committee before it will become effective.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-13-105, 63-13-108, and 63-13-209.

Contact who can answer questions concerning this notice of rulemaking hearing, technical contact for disk acquisition, and person who will approve final copy for publication: Jerry Kosten, Regulations Manager, Division of Health Related Boards, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (615) 532-4397.

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Tennessee Board of Occupational and Physical Examiners' Committee of Occupational Therapy.

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Robbie H. Bell, Director  
Health Related Boards

Subscribed and sworn to before me this the 11th day of August, 2006.

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Notary Public

My commission expires on the 20th day of March, 2010.

The notice of rulemaking set out herein was properly filed in the Department of State on the \_\_\_\_ day of \_\_\_\_\_, 2006.

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Riley C. Darnell  
Secretary of State

By: \_\_\_\_\_