

Notice of Rulemaking Hearing
Board of Occupational Therapy

There will be a hearing before the Tennessee Board of Occupational Therapy to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-13-216, and Public Chapter 115 of the Public Acts of 2007. 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 Department of Health Conference Center's Mockingbird Room on the First Floor of the Heritage Place Building located at 227 French Landing, Nashville, TN at 2:30 p.m. (CDT) on the 17th day of October, 2007.

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

Chapter 1150-02

General Rules Governing the Practice of Occupational Therapy

Rule 1150-02-.01, Definitions, is amended by deleting subparagraphs (26) (a), (26) (b), (26) (c), (26) (d) and (26) (e) in their entirety and substituting instead the following language, and is further amended by inserting the following language as a properly alphabetized/numbered new paragraph and renumbering the current paragraphs accordingly, so that as amended, the new subparagraphs (26) (a), (26) (b), (26) (c), (26) (d) and (26) (e), and the new properly alphabetized/numbered paragraph shall read:

(26) (a) Continuous: Within sight of the individual being supervised

(26) (b) Close: Daily direct contact at the site of treatment.

(26) (c) Routine: Direct contact at least every two (2) weeks at the site of treatment, with interim supervision occurring by other methods such as telephone or written communication.

(26) (d) General: At least monthly direct contact with supervision available as needed by other methods.

(26) (e) Minimal:

1. For supervision of occupational therapists, minimal supervision may be provided on an as-needed basis and may be less than monthly.

2. For supervision of occupational therapy assistants, minimal supervision is not appropriate.

- () Direct contact - Observed treatment interventions, in-person review and/or discussion of caseload and treatment planning.

Authority: T.C.A. §§ 63-13-103, 63-13-206, 63-13-207, 63-13-216, and Public Chapter 115 of the Public Acts of 2007.

Rule 1150-02-.03, Necessity of Licensure, is amended by adding the following language as new paragraph (5):

- (5) Licensee Use of Titles - Any person who possesses a valid, current and active license issued by the Board that has not been suspended or revoked has the right to use the title "Occupational Therapist" or "Occupational Therapy Assistant" as applicable, and to use the acronyms "O.T." or "O.T.A." as applicable, and to practice occupational therapy, as defined in T.C.A. § 63-13-103. Any person to whom this rule applies must use one of the titles authorized by this rule in every "advertisement" [as that term is defined in rule 1150-02-.13 (2) (a)] he or she publishes or the failure to do so will constitute an omission of a material fact which makes the advertisement misleading and deceptive and subjects the licensee to disciplinary action pursuant to T.C.A. § 63-13-209 (a) (1) and (a) (3).

Authority: T.C.A. §§ 63-1-145, 63-13-209, 63-13-216, and Public Chapter 115 of the Public Acts of 2007.

Rule 1150-02-.10, Supervision, is amended by deleting the first sentence of the introductory language in its entirety and substituting instead the following language, and is further amended by deleting paragraph (1) but not its subparagraphs and substituting instead the following language, and is further amended by deleting subparagraph (1) (d) in its entirety and substituting instead the following language, and is further amended by deleting paragraph (2) but not its subparagraphs and substituting instead the following language, and is further amended by adding the following language as new subparagraph (2) (f), and is further amended by deleting paragraph (3) but not its subparagraphs and substituting instead the following language, and is further amended by adding the following language as new subparagraph (3) (f), so that as amended, the new first sentence of the introductory language, the new paragraph (1) but not its subparagraphs, the new subparagraph (1) (d), the new paragraph (2) but not its subparagraphs, the new subparagraph (2) (f), the new paragraph (3) but not its subparagraphs, and the new subparagraph (3) (f) shall read:

1150-02-.10 Supervision. The Board adopts, as if fully set out herein, and as it may from time to time be amended, the current "Guidelines for Supervision, Roles, and Responsibilities During the Delivery of Occupational Therapy Services" issued by the American Occupational Therapy Association but only to the extent that it agrees with the laws of the state of Tennessee or the rules of the Board. If there are conflicts with state law or rules, the state law or rules govern the matter.

- (1) Supervision of an Occupational Therapist on a limited permit must include initial and routine inspection of written evaluations, written treatment plans, patient/client notes and routine evaluation of performance. The supervision must be conducted in person, by a licensed occupational therapist and must be as follows:

- (1) (d) Therapists must maintain documentation of each supervisory visit, and must identify a plan for continued supervision. Records must include the following information:

1. Location of visit; a method of identifying clients discussed

2. Current plan for supervision (daily, weekly, bi-monthly)
 3. Identification of type(s) of interventions observed. These include but are not limited to:
 - (i) Interventions
 - (ii) Training
 - (iii) Consultations
 4. Other supervisory actions. These include but are not limited to:
 - (i) Discussion/recommendation for interventions and/or goals
 - (ii) Discussion/training in documentation
 - (iii) Demonstration/training in intervention techniques
 - (iv) Assessment/re-assessment/discharge
 - (v) Additional Comments
 5. An agreement statement signed and dated by both parties, that the supervisory visit did occur and met the needs of the supervisor and supervisee.
 6. It is the responsibility of the supervising occupational therapist to provide and the limited permit holder to seek the quality and frequency of supervision to ensure safe and effective occupational therapy service delivery. Both parties (supervisor and supervisee) must keep copies of the supervisory records. Visit records must be maintained for three (3) years, and must be provided to the Board and/or its representative, upon request.
- (2) Supervision of an Occupational Therapy Assistant on a limited permit means initial direction and routine inspection of the service delivery and provisions of relevant in-service training. The supervising occupational therapist must provide additional supervision, if the patients required level of care is beyond the level of skill of an entry level Occupational Therapy Assistant on a limited permit. This decision is based on client's level of care, OTA caseload, experience and demonstrated performance competency. Supervision of an Occupational Therapy Assistant on a limited permit must include initial and routine inspection of patient notes and routine evaluation of performance. The supervision must be conducted in person by a licensed occupational therapist and must be as follows:
- (2) (f) Therapists must maintain documentation of each supervisory visit, and must identify a plan for continued supervision. Records must include a minimum of the following information:
1. Location of visit; a method of identifying clients discussed
 2. Current plan for supervision (daily, weekly, bi-monthly)
 3. Identification of type(s) of interventions observed. These include but are not limited to:
 - (i) Interventions
 - (ii) Training

- (iii) Consultations
 - 4. Other supervisory actions. These include but are not limited to:
 - (i) Discussion/recommendation for interventions and/or goals
 - (ii) Discussion/training in documentation
 - (iii) Demonstration/training in intervention techniques
 - (iv) Assessment/re-assessment/discharge
 - (v) Additional Comments
 - 5. An agreement statement signed and dated by both parties, that the supervisory visit did occur and met the needs of the supervisor and supervisee.
 - 6. It is the responsibility of the supervising occupational therapist to provide and the limited permit holder to seek the quality and frequency of supervision to ensure safe and effective occupational therapy service delivery. Both parties (supervisor and supervisee) must keep copies of the supervisory records. Visit records must be maintained for three (3) years, and must be provided to the Board and/or its representative, upon request.
- (3) Supervision of an Occupational Therapy Assistant with permanent licensure means initial direction and inspection of the service delivery and provisions of relevant in-service training, according to the level of supervision the occupational therapy assistant requires. It is the responsibility of the occupational therapist and the occupational therapy assistant to seek the appropriate quality and frequency of supervision to ensure safe and effective occupational therapy service delivery. This decision is based on client's level of care, OTA caseload, experience and demonstrated performance competency.
- (3) (f) Therapists must maintain documentation of each supervisory visit, and must identify a plan for continued supervision. Records must include a minimum of the following information:
- 1. Location of visit; a method of identifying clients discussed
 - 2. Current plan for supervision (daily, weekly, bi-monthly, monthly, other)
 - 3. Type of supervision provided. These include but are not limited to
 - (i) in person
 - (ii) phone contact
 - (iii) electronic contact
 - 4. Identification of type(s) of interventions observed. These include but are not limited to:
 - (i) Interventions
 - (ii) Training
 - (iii) Consultations

5. Other supervisory actions. These include but are not limited to:
 - (i) Discussion/recommendation for interventions and/or goals
 - (ii) Discussion/training in documentation
 - (iii) Demonstration/training in intervention techniques
 - (iv) Assessment/re-assessment/discharge
 - (v) Additional Comments
6. An agreement statement signed and dated by both parties, that the supervisory visit did occur and met the needs of the supervisor and supervisee.
7. It is the responsibility of the supervising occupational therapist to provide and the occupational therapy assistant to seek the quality and frequency of supervision to ensure safe and effective occupational therapy service delivery. Both parties (supervisor and supervisee) should keep copies of the supervisory records. Visit records must be maintained for three (3) years, and must be provided to the Board and/or its representative, upon request.

Authority: T.C.A. §§ 63-13-103, 63-13-206, 63-13-207, 63-13-216, and Public Chapter 115 of the Public Acts of 2007.

Rule 1150-02-.15, Disciplinary Actions, Civil Penalties, and Screening Panels, is amended by adding the following language as new subparagraph (1) (f):

- (1) (f) Conditions - Any action deemed appropriate by the Board to be required of a disciplined licensee in any of the following circumstances:
 1. During any period of probation, suspension; or
 2. During any period of revocation after which the licensee may petition for an order of compliance to reinstate the revoked license; or
 3. As a prerequisite to the lifting of probation or suspension or as a prerequisite to the reinstatement of a revoked license; or
 4. As a stand-alone requirement(s) in any disciplinary order.

Authority: T.C.A. §§ 63-13-108, 63-13-209, 63-13-216, and Public Chapter 115 of the Public Acts of 2007.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2007. (FS 08-28-07; DBID 712)

