

(b) In delegating selected occupational therapy services, the licensed occupational therapist shall be responsible for exercising that degree of judgment and knowledge reasonably expected to assure that a proper delegation has been made. A licensed occupational therapist shall not delegate the performance of an occupational therapy service to persons who have not been adequately prepared by verified training and education. No task may be delegated which is within the scope of practice of the occupational therapist and requires:

1. The substantial knowledge and skill derived from completion of an occupational therapy education program and the specialized skill, judgment and knowledge of a licensed occupational therapist; and
2. An understanding of occupational therapy principles necessary to recognize and manage complications which may result in harm to the health and safety of the client.

(c) The licensed occupational therapist shall be responsible for the proper supervision of persons to whom delegation of occupational therapy services is made. Such supervision shall be either close, routine or general supervision. For purposes of this subsection, "close supervision" means daily, face to face contact with and frequent observation of the performance of the occupational therapy assistant at the location where his or her services are being rendered; "routine supervision" means face to face contact with and observation of the performance of the occupational therapy assistant at least once a week at the location where his or her services are being rendered; and "general supervision" means face to face contact with and observation of the performance of the occupational therapy assistant at least once every two weeks at the location where his or her services are being rendered. The degree of supervision exercised over such persons shall be determined by the licensed occupational therapist consistent with the requirements set forth in N.J.A.C. 13:44K-6.2 and based on an evaluation of:

1. The condition of the client;
2. The education, skill and training of the person to whom delegation is being made; and
3. The nature of the tasks and the activities being delegated.

(d) When occupational therapy services are delegated pursuant to the provisions of (a), (b) and (c) above, the supervising occupational therapist shall retain responsibility for all occupational therapy care of the client.

SUBCHAPTER 6. SUPERVISION OF OCCUPATIONAL THERAPY ASSISTANTS

Authority

N.J.S.A. 45:9-37.51 et seq., specifically 45:9-37.75.

Source and Effective Date

R.2002 d.261, effective August 5, 2002.
See: 33 N.J.R. 2410(a), 34 N.J.R. 2844(b).

13:44K-6.1 Supervision requirement: occupational therapy assistant

(a) A licensed occupational therapy assistant shall work only under the supervision of a licensed occupational therapist on a regularly scheduled basis pursuant to the provisions of this subchapter.

(b) The supervising occupational therapist shall retain responsibility for the occupational therapy care of the client being treated by the occupational therapy assistant.

(c) In the event of a change of the supervising occupational therapist, the subsequent supervisor shall assume responsibility for the ongoing supervision of any occupational therapy assistant(s) providing care to a client and shall become the designated supervisor.

13:44K-6.2 Responsibilities of designated supervisor

(a) An occupational therapist shall not supervise more than five licensees, including occupational therapy assistants, temporary licensed occupational therapists or temporary licensed occupational therapy assistants.

(b) An occupational therapist may supervise five occupational therapy students who are fulfilling the required field-work component of their educational training.

(c) Notwithstanding the provisions of (a) and (b) above, a licensed occupational therapist shall not supervise more than seven persons at one time.

(d) A designated supervisor shall be responsible for the close, routine or general supervision of an occupational therapy assistant, as defined in this section. For purposes of this section, "close supervision" means daily, face to face contact with and frequent observation of the performance of the occupational therapy assistant at the location where his or her services are being rendered; "routine supervision" means face to face contact with and observation of the performance of the occupational therapy assistant at least once a week at the location where his or her services are being rendered; and "general supervision" means face to face contact with and observation of the performance of the occupational therapy assistant at least once every two weeks at the location where his or her services are being rendered.

(e) A designated supervisor shall determine the level of supervision required of each occupational therapy assistant consistent with the condition of the client, the education, skill and training of the occupational therapy assistant and the nature of the tasks and activities to be performed by the occupational therapy assistant; provided, however, that a designated supervisor shall provide close supervision for any occupational therapy assistant who:

1. Has been engaged in the practice of occupational therapy for less than one year on a full-time basis; or
2. Has less than one year of full-time work experience in a practice area.

(f) When providing routine or general supervision of an occupational therapy assistant, a designated supervisor may also provide interim supervision of the occupational therapy assistant through telephonic or written communications, including reports and/or conferences, between the supervisor and the occupational therapy assistant.

(g) Notwithstanding the provisions of (a) through (d) above, an occupational therapist who has less than 1,200 hours of work experience obtained over a two year period shall not supervise any persons engaged in the practice of occupational therapy services.

(h) A designated supervisor shall maintain a written plan of supervision which shall include evidence of the ongoing supervision of each occupational therapy assistant for whom the supervisor is responsible.

(i) A designated supervisor who is unavailable to provide occupational therapy assistants with either routine or general supervision as required in (d) through (f) above, for two or more contact periods, shall arrange for substitute supervision by a licensed occupational therapist, who shall follow the established plan of supervision.

(j) A designated supervisor who is unable to provide occupational therapy assistants with close supervision as required in (e) above, for more than one day, shall arrange for substitute supervision by a licensed occupational therapist, who shall follow the established plan of supervision.

13:44K-6.3 Responsibilities of an occupational therapy assistant

(a) An occupational therapy assistant shall not render nor continue to render client care unless he or she has obtained ongoing direction from his or her designated supervisor.

(b) An occupational therapy assistant shall be responsible for clients within the limits of his or her scope of practice pursuant to N.J.A.C. 13:44K-5.2.

(c) An occupational therapy assistant shall maintain a record of supervision which shall include the name and license number of his or her designated supervisor, the date when the occupational therapy assistant received supervision and the type of supervision that was provided.

13:44K-6.4 Delegation of supervision responsibilities

(a) A designated supervisor providing close supervision of an occupational therapy assistant, a temporary licensed occupational therapy assistant or an occupational therapy student, may delegate his or her supervisory responsibility for the daily, face to face contact with and frequent observation of the performance of the occupational therapy assistant, the temporary licensed occupational therapy assistant or the occupational therapy student, to an occupational therapy assistant who, in the professional judgment of the supervising occupational therapist, has been adequately prepared by verified training and education in the provision of occupational therapy services consistent with the requirements set forth at N.J.A.C. 13:44K-2.1.

(b) Notwithstanding the provisions of (a) above, no designated supervisor shall delegate his or her responsibilities for close supervision of an occupational therapy assistant to an occupational therapy assistant who has less than 3,600 hours of work experience obtained within a five year period in the particular practice area in which services are being provided.

(c) A licensed occupational therapy assistant who has been delegated supervision responsibilities pursuant to (a) and (b) above, shall not supervise more than three persons at one time.

(d) Notwithstanding the provisions of (a), (b) and (c) above, a licensed occupational therapist shall not supervise more than seven persons at one time, pursuant to the provisions of N.J.A.C. 13:44K-6.2.

(e) When supervision of an occupational therapy assistant, a temporary licensed occupational therapy assistant or an occupational therapy student is delegated pursuant to the provisions of (a), (b), (c) and (d) above, the supervising occupational therapist shall retain responsibility for all occupational therapy care of the client.

SUBCHAPTER 7. SUPERVISION OF TEMPORARY LICENSED OCCUPATIONAL THERAPIST AND TEMPORARY LICENSED OCCUPATIONAL THERAPY ASSISTANT

Authority

N.J.S.A. 45:9-37.51 et seq., specifically 45:9-37.75.

Source and Effective Date

R.2002 d.261, effective August 5, 2002.
See: 33 N.J.R. 2410(a), 34 N.J.R. 2844(b).

13:44K-7.1 Supervision requirement: temporary licensed occupational therapist and temporary licensed occupational therapy assistant

(a) A temporary licensed occupational therapist or a temporary licensed occupational therapy assistant shall work only under the supervision of a licensed occupational therapist or licensed occupational therapy assistant pursuant to the provisions of this subchapter.

(b) The supervising occupational therapist shall be responsible for the occupational therapy care of the client being treated by a temporary licensed occupational therapist or a temporary licensed occupational therapy assistant.

(c) In the event of a change of the supervising occupational therapist, the subsequent supervisor shall assume responsibility for the ongoing supervision of any temporary licensed occupational therapist(s) or occupational therapy assistant(s) providing care to the client and shall become the designated supervisor.

13:44K-7.2 Responsibilities of designated supervisor

(a) An occupational therapist shall not supervise more than five persons, including occupational therapy assistants, temporary licensed occupational therapists or temporary licensed occupational therapy assistants.

(b) A licensed occupational therapist may supervise five occupational therapy students who are fulfilling the required fieldwork component of their educational training.

(c) Notwithstanding the provisions of (a) and (b) above, a licensed occupational therapist shall not supervise more than seven persons at one time.

(d) A designated supervisor shall be responsible for the close supervision of a temporary licensed occupational therapist or temporary licensed occupational therapy assistant. For purposes of this subsection, "close supervision" means daily, face to face contact with and frequent observation of the performance of a temporary licensee at the location where his or her services are being rendered.

(e) A designated supervisor shall maintain a plan of supervision which shall include evidence of the ongoing supervision of each temporary licensee for whom the supervisor is responsible.

(f) A designated supervisor who is unavailable to provide licensees with supervision as required by (a) through (c) above, for more than one day, shall arrange for substitute supervision by a licensed occupational therapist, who shall follow the established plan of supervision.

13:44K-7.3 Responsibilities of a temporary licensed occupational therapist or a temporary licensed occupational therapy assistant

(a) A temporary licensed occupational therapist or a temporary licensed occupational therapy assistant shall not render nor continue to render care unless he or she has obtained ongoing direction from his or her designated supervisor.

(b) A temporary licensed occupational therapist shall be responsible for client care within the limits of his or her scope of practice pursuant to N.J.A.C. 13:44K-5.1. A temporary licensed occupational therapy assistant shall be responsible for care within the limits of his or her scope of practice pursuant to N.J.A.C. 13:44K-5.2.

(c) A temporary licensed occupational therapist or a temporary licensed occupational therapy assistant shall maintain a record of supervision which shall include the name and license number of his or her designated supervisor, the date when the temporary licensee received supervision and the type of supervision that was provided.

Amended by R.2003 d.428, effective November 3, 2003.
See: 35 N.J.R. 1784(a), 35 N.J.R. 5124(a).

In (c), substituted "therapist" for "therapy assistant".

SUBCHAPTER 8. GENERAL OBLIGATIONS OF LICENSEES**Authority**

N.J.S.A. 45:9-37.51 et seq., specifically 45:9-37.75.

Source and Effective Date

R.2002 d.261, effective August 5, 2002.
See: 33 N.J.R. 2410(a), 34 N.J.R. 2844(b).

13:44K-8.1 Notification of change of address; service of process

(a) A licensee shall notify the Council, within 30 days, of any change in address on file with the Council and shall specify whether the address is a residence or employment address.

(b) Service of an administrative complaint or other process initiated by the Attorney General, the Director or the Council at the address on file with the Council shall be deemed adequate notice for the commencement of an inquiry or disciplinary proceeding.

(c) A licensee shall, within 30 days of receiving a notice of disciplinary action taken against the licensee in another jurisdiction, report to the Council in writing his or her receipt of such notification.

Amended by R.2003 d.428, effective November 3, 2003.
See: 35 N.J.R. 1784(a), 35 N.J.R. 5124(a).

In (a), deleted "by certified mail, return receipt request," preceding "and shall specify".

13:44K-8.2 Notification of change of name or practice name

(a) A licensee whose name has been legally changed shall forward to the Council by certified mail, return receipt requested, no later than 30 days following the change of name, the following:

1. Legal evidence of such change; and
2. A copy of the licensee's original license with proof that he or she is the same person to whom the Council issued the license.

(b) Upon receipt of the items set forth in (a) above and upon payment of the fees specified in N.J.A.C. 13:44K-11.1(a)12 and 13, the Council shall issue to the individual a new license.

(c) Upon receipt of the new license as set forth in (b) above, the licensee shall immediately remit the original license to the Council.

(d) A licensee shall notify the Council by certified mail, return receipt requested, within 30 days, of any change in a professional practice name on file with the Council.

Amended by R.2003 d.428, effective November 3, 2003.
See: 35 N.J.R. 1784(a), 35 N.J.R. 5124(a).

In (b), amended N.J.A.C. references.

13:44K-8.3 Unlicensed practice of occupational therapy

(a) The following acts or practices shall be deemed to be the unlicensed practice of occupational therapy:

1. Offering or rendering occupational therapy services by any person other than a licensed occupational therapist, a licensed occupational therapy assistant or a person who is exempt from licensure under the Occupational Therapy Licensing Act, pursuant to N.J.S.A. 45:9-37.60;
2. The use by any person other than a licensed occupational therapist or a licensed occupational therapy assistant of:
 - i. Any title or designation which includes the words occupational therapist or occupational therapy assistant which may mislead the public; or
 - ii. The abbreviations O.T. or O.T.A., or any similar abbreviations.

(b) A licensee shall use only the title or designation corresponding to his or her license.

13:44K-8.4 Aiding and abetting unlicensed practice

It shall be professional misconduct for a licensee to aid or assist any person engaging in conduct that violates N.J.A.C. 13:44K-8.3 and shall constitute a deviation from the normal standards of practice required of a license, which may subject the licensee to the penalties of N.J.S.A. 45:1-21.

13:44K-8.5 Sexual misconduct

(a) As used in this section, the following terms have the following meanings unless the context clearly indicates otherwise:

“Client” means any person who is the recipient of occupational therapy evaluation, instruction or treatment rendered by a licensee.

“Client-therapist relationship” means a relationship between an occupational therapist, occupational therapy assistant, or temporarily licensed occupational therapist or occupational therapy assistant, and the client wherein the licensee owes a continuing duty to the client to render occupational therapy services consistent with his or her training and experience.

“Licensee” means any person licensed to engage in practice as an occupational therapist, occupational therapy assistant or temporarily licensed occupational therapist or occupational therapy assistant by the Occupational Therapy Advisory Council.

“Sexual contact” means the knowing touching of a person’s body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensee’s own prurient interest or for sexual arousal or gratification. “Sexual contact” includes, but is not limited to, the imposition of a part of the licensee’s body upon a part of the client’s body, sexual penetration, or the insertion or imposition of any object or any part of a licensee or client’s body into or near the genital, anal or other opening of the other person’s body. “Sexual contact” does not include the touching of a client’s body which is necessary during the performance of a generally accepted and recognized occupational therapy procedure.

“Sexual harassment” means solicitation of any sexual act, physical advances, or verbal or non-verbal conduct that is sexual in nature, and which occurs in connection with a licensee’s activities or role as a provider of occupational therapy services, and that either: is unwelcome, is offensive to a reasonable person, or creates a hostile workplace environment, and the licensee knows, should know, or is told this; or is sufficiently severe or intense to be abusive to a reasonable person in that context. “Sexual harassment” may consist of a single extreme or severe act or of multiple acts and may include, but is not limited to, conduct of a licensee with a client, co-worker, employee, student or supervisee whether or not such individual is in a subordinate position to the licensee. “Sexual harassment” may also include conduct of a nonsexual nature if it is based on the sex of an individual.

“Spouse” means the husband, wife or fiancée of the licensee or an individual involved in a long-term committed relationship with the licensee. For purposes of the definition of “spouse,” a long-term committed relationship means a relationship which is at least six months in duration.

(b) A licensee shall not engage in sexual contact with a client with whom he or she has a client-therapist relationship. The client-therapist relationship is ongoing for purposes of this section, unless:

1. Occupational therapy is terminated by way of written notice to the client and is documented in the client record; or
2. The last occupational therapy was rendered more than six months ago.

(c) In circumstances where the client is, or should be recognized by the licensee as, clearly vulnerable by reason of emotional or cognitive disorder to exploitive influence by the licensee, the prohibition on sexual contact shall extend indefinitely.

(d) A licensee shall not seek or solicit sexual contact with a client with whom he or she has a client-therapist relationship and shall not seek or solicit sexual contact with any person in exchange for professional services.

(e) A licensee shall not engage in any discussion of an intimate sexual nature with a client, unless that discussion is directly related to a proper occupational therapy purpose. Such discussion shall not include disclosure by the licensee of his or her own sexual relationships.

(f) A licensee shall provide privacy and examination conditions which prevent the exposure of the unclothed body of the client. Appropriate draping measures shall be employed to protect client privacy.

(g) A licensee shall not engage in sexual harassment either within or outside of the professional setting.

(h) A licensee shall not engage in any other activity which would lead a reasonable person to believe that the activity serves the licensee's personal prurient interests or which is for the sexual arousal, or sexual gratification of the licensee or client or which constitutes an act of sexual abuse.

(i) Violation of any of the prohibitions or directives set forth in (c) through (h) above shall constitute professional misconduct pursuant to N.J.S.A. 45:1-21(e).

(j) Nothing in this section shall be construed to prevent a licensee from rendering occupational therapy to a spouse, providing that the rendering of such occupational therapy is consistent with accepted standards of occupational therapy and that the performance of occupational therapy is not utilized to exploit the client spouse for the sexual arousal or sexual gratification of the licensee.

(k) It shall not be a defense to any action under this section that:

1. The client solicited or consented to sexual contact with the licensee; or
2. The licensee is in love with or held affection for the client.

New Rule, R.2003 d.428, effective November 3, 2003.
See: 35 N.J.R. 1784(a), 35 N.J.R. 5124(a).

**SUBCHAPTER 9. BUSINESS PRACTICES;
PROFESSIONAL CONDUCT**

Authority

N.J.S.A. 45:9-37.51 et seq., specifically 45:9-37.75.

Source and Effective Date

R.2002 d.257, effective August 5, 2002.
See: 33 N.J.R. 2417(a), 34 N.J.R. 2859(a).

13:44K-9.1 Display of notice of licensure; duplicate license; notification of availability of fee information

(a) All licensed occupational therapists and occupational therapy assistants shall make their licenses available to clients upon request. Duplicate licenses may be obtained upon payment of the fees provided in N.J.A.C. 13:44K-11.1(a)12 and 13.

(b) All licensed occupational therapists and occupational therapy assistants shall ensure that the following notices are prominently displayed in a public area in any office or facility at which the licensee practices occupational therapy services:

1. "Occupational therapists and occupational therapy assistants are licensed by the Occupational Therapy Advisory Council, an agency of the Division of Consumer Affairs. Any member of the public may notify the Council of any complaint relative to the practice conducted by an occupational therapist or an occupational therapy assistant. The Council address is: Division of Consumer Affairs, Occupational Therapy Advisory Council, PO Box 45037, 124 Halsey Street, Newark, New Jersey 07101."

2. "INFORMATION ON PROFESSIONAL FEES IS AVAILABLE TO YOU UPON REQUEST."

(c) A licensee shall not alter or obscure any information on the biennial license in any manner.

Amended by R.2003 d.428, effective November 3, 2003.
See: 35 N.J.R. 1784(a), 35 N.J.R. 5124(a).
In (a), amended N.J.A.C. references.

13:44K-9.2 Financial arrangements with clients and third party payors

(a) Fees for occupational therapy services shall be reasonable and commensurate with the status and experience of the occupational therapist offering like services or treatment in the geographic area and shall be consistent with the provisions of N.J.A.C. 13:44K-9.4 prohibiting excessive fees.

(b) Prior to the initiation of occupational therapy services, the occupational therapist or his or her designee shall explain to the client in an understandable manner the financial arrangements for the services that will be provided. The information provided to the client shall include the following:

1. The fee for services or the basis for determining the fee to be charged;
2. Whether the licensee will accept installment payments or assignment of benefits from a third party payor;
3. That insurance coverage may not be available in all circumstances; and
4. The financial consequences, if any, of missed sessions.

(c) An occupational therapist shall not require a client or a third party payor to pay:

1. A fee for preparing an insurance claim form;
2. Interest on an unpaid account unless the client has been notified of this policy, in writing, prior to the initiation of occupational therapy services;
3. A full or partial fee for unkept appointments unless the client has been notified of this policy, in writing, prior to the initiation of occupational therapy services; or
4. A fee for any occupational therapy service not documented in a client record in a manner consistent with N.J.A.C. 13:44K-10.1.