

**CHAPTER 44K****OCCUPATIONAL THERAPY ADVISORY COUNCIL****Authority**

N.J.S.A. 45:1-15 and 45:9-37.51 et seq.

**Source and Effective Date**

R.2009 d.141, effective March 31, 2009.  
See: 40 N.J.R. 6391(a), 41 N.J.R. 2017(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 44K, Occupational Therapy Advisory Council, expires on March 31, 2016. See: 43 N.J.R. 1203(a).

**Chapter Historical Note**

Chapter 44K, Occupational Therapy Advisory Council, was adopted as R.1998 d.203, effective April 20, 1998. See: 29 N.J.R. 4657(a), 30 N.J.R. 1419(a).

Subchapter 1, General Provisions; Subchapter 5, Scope of Practice; Subchapter 6, Supervision of Occupational Therapy Assistants; Subchapter 7, Supervision of Temporary Licensed Occupational Therapist and Temporary Licensed Occupational Therapy Assistant; and Subchapter 8, General Obligations of Licensees, were adopted as new rules by R.2002 d.261, effective August 5, 2002. See: 33 N.J.R. 2410(a), 34 N.J.R. 2844(b).

Subchapter 9, Business Practices; Professional Conduct; and Subchapter 10, Client Records, were adopted as new rules by R.2002 d.257, effective August 5, 2002. See: 33 N.J.R. 2417(a), 34 N.J.R. 2859(a).

Chapter 44K, Occupational Therapy Advisory Council, was readopted as R.2003 d.428, effective October 3, 2003. See: 35 N.J.R. 1784(a), 35 N.J.R. 5124(a).

Chapter 44K, Occupational Therapy Advisory Council, was readopted as R.2009 d.141, effective March 31, 2009. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. GENERAL PROVISIONS****13:44K-1.1 Purpose and scope**

(a) The rules in this chapter implement the provisions of the Occupational Therapy Licensing Act (the Act), N.J.S.A.

45:9-37.51 et seq., and regulate the practice of occupational therapy within the State of New Jersey.

(b) Except as set forth in (c) below, this chapter shall apply to all applicants for licensure as an occupational therapist or occupational therapy assistant and licensees who offer or practice occupational therapy in the State of New Jersey.

(c) This chapter shall not apply to those individuals exempt from the licensure requirements of the Act pursuant to N.J.S.A. 45:9-37.60, except as provided in N.J.A.C. 13:44K-1.3.

Amended by R.2009 d.141, effective May 4, 2009.

See: 40 N.J.R. 6391(a), 41 N.J.R. 2017(a).

In (c), inserted “, except as provided in N.J.A.C. 13:44K-1.3”.

### 13:44K-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

“Act” means the Occupational Therapy Licensing Act codified at N.J.S.A. 45:9-37.51 et seq.

“Client” means a person, group of persons or a system, that receives professional services rendered by a licensed occupational therapist, a licensed occupational therapy assistant or a temporary licensed occupational therapist or assistant in medical, health, educational, vocational or social settings.

“Consultative services” means the provision of expert or professional advice to a client or other interested party with regard to therapeutic activities or approaches which may be utilized in order to improve the occupational performance of a client.

“Council” means the Occupational Therapy Advisory Council established pursuant to N.J.S.A. 45:9-37.54.

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Direct services” means occupational therapy techniques that are individually designed and that are provided by an occupational therapist, an occupational therapy assistant or a temporary licensed occupational therapist or assistant to a client in order to improve the occupational performance of the client.

“Indirect services” means occupational therapy techniques that are individually designed, but which do not require direct interaction with the client, for the purpose of directing or advising others in therapeutic activities or approaches which may be used in order to improve the occupational performance of the client.

“Licensee” means any individual holding a license to provide occupational therapy services in the State of New Jersey.

“Occupational performance” means the performance of life skills, roles and functions, including work, recreation and

leisure skills and the activities of daily living that are affected by sensory, motor, perceptual, cognitive and/or psycho-social abilities.

“Occupational therapist” means a person licensed to practice occupational therapy pursuant to the provisions of the Act and this chapter.

“Occupational therapy” means the evaluation, planning and implementation of a program of purposeful activities to develop or maintain functional skills necessary to achieve the maximum physical and/or mental functioning of the client for optimum occupational performance.

“Occupational therapy assistant” means a person licensed pursuant to the provisions of the Act and this chapter to assist in the practice of occupational therapy under the supervision of an occupational therapist on a regularly scheduled basis for the purpose of planning, review or evaluation of occupational therapy services.

“Occupational therapy services” means the use of specific techniques which enhance the functional performance of a client, including the evaluation and assessment of a client’s self care, lifestyle performance patterns, work skills, performance related cognitive, sensory, motor, perceptual, affective, interpersonal and social functioning, vocational and prevocational capacities. Occupational therapy services also includes the design, fabrication and application of adaptive equipment or prosthetic or orthotic devices, excluding dental devices, the utilization of physical agent modalities, the administration of standardized and non-standardized assessments and consultation, including recommendations for the adaptation of physical environments.

“Program” means a procedure for solving a problem, including the collection of data, the processing and presentation of test results and the recommended use of purposeful activities, in order to achieve optimal occupational performance.

“Purposeful activities” means acts and occupations of craftsmanship and workmanship, as well as creative, educational, or other activities, which in whole or in part are used to correct, compensate for or prevent dysfunction in the tasks and activities of everyday living, and which simultaneously incorporate personally and culturally relevant biological, psychological and social elements that produce positive adaptation and motivational behavior.

“Short term goals” means occupational therapy goals established for no longer than one year.

“Supervision” means the responsible and direct involvement of a licensed occupational therapist with an occupational therapy assistant, a temporary licensed occupational therapist, a temporary licensed occupational therapy assistant or an occupational therapy student fulfilling the required

Amended by R.2003 d.428, effective November 3, 2003.

See: 35 N.J.R. 1784(a), 35 N.J.R. 5124(a).

Rewrote the section.

Amended by R.2009 d.141, effective May 4, 2009.

See: 40 N.J.R. 6391(a), 41 N.J.R. 2017(a).

In (c), inserted “, within 10 business days of the expiration of the temporary license,” and a comma following “(NBCOT)”; in (d), (e) and (f), inserted the last sentence; in (d), inserted a comma following “license”; in (e), deleted “permanent” preceding “licensure as”; and in (f), substituted the first occurrence of “licensure” for “a permanent license”, and deleted “permanent” preceding “licensure application”.

## SUBCHAPTER 5. SCOPE OF PRACTICE

### 13:44K-5.1 Scope of practice of a licensed occupational therapist

(a) The scope of practice of a licensed occupational therapist shall include:

1. The provision of direct, indirect and/or consultative services to a client affected by physical, psycho-social, cognitive, congenital and/or developmental disorders or the aging process, to improve and/or prevent loss of physical or mental functioning and to promote wellness;

2. The administration of standardized and/or non-standardized assessments and/or the observation of a client and the environment to identify areas of functional abilities or deficits. Areas, which may be assessed shall include the performance of activities of daily living, including recreation, leisure or work related skills, which are affected by sensory, motor, developmental, perceptual, cognitive and/or psycho-social abilities;

3. The interpretation of the results of the assessment process described in (a)2 above, to determine the need for an intervention plan for the client. Such a plan shall be developed and administered by the occupational therapist in collaboration with the client, the client’s family and related medical, health, educational or social agencies or professionals;

4. The development and utilization of, and education and training in, purposeful, task-oriented activities for the client to improve, restore and/or maintain optimal performance of life skills, roles and functions including work, recreation, leisure skills and activities of daily living;

5. The design, fabrication, application and/or selection of adaptive equipment, prosthetics and/or orthotic devices, except dental devices;

6. Consultation concerning the adaptation of physical environments; and

7. The utilization of physical agent modalities, consistent with N.J.A.C. 13:44K-5.4, as an adjunct to, or in preparation for, purposeful activities to enhance occupational performance with which the licensee is familiar as a result of training and experience.

Amended by R.2009 d.141, effective May 4, 2009.

See: 40 N.J.R. 6391(a), 41 N.J.R. 2017(a).

In (a)2, inserted a comma following “Areas”, “skills” and “developmental,”; and in (a)7, inserted “agent” and “”, consistent with N.J.A.C. 13:44K-5.4”.

### 13:44K-5.2 Scope of practice of a licensed occupational therapy assistant

(a) The scope of practice of a licensed occupational therapy assistant, working under the supervision of a licensed occupational therapist as provided in N.J.A.C. 13:44K-6.1, shall include:

1. The provision of direct, indirect and/or consultative services to a client affected by physical, psycho-social, cognitive, congenital and/or developmental disorders or the aging process, to improve and/or prevent loss of physical or mental functioning and to promote wellness;

2. The administration of standardized and/or non-standardized assessments and/or the observation of a client and the environment to assist in the identification of functional abilities or deficits. Areas, which may be assessed shall include the performance of activities of daily living, including recreation, leisure or work related skills which are affected by sensory, motor, developmental, perceptual, cognitive and/or psycho-social abilities;

3. Assisting in the development and implementation of an intervention plan for the client;

4. The development and utilization of, and education and training in, purposeful, task-oriented activities for the client to improve, restore and/or maintain optimal performance of life skills, roles and functions including work, recreation, leisure skills and the activities of daily living;

5. The design, fabrication, application and/or selection of adaptive equipment, prosthetics and/or orthotic devices, except dental devices;

6. Consultation concerning the adaptation of physical environments; and

7. The utilization of physical agent modalities, consistent with N.J.A.C. 13:44K-5.4, as an adjunct to, or in preparation for, purposeful activity to enhance occupational performance with which the licensee is familiar as a result of training and experience.

Amended by R.2009 d.141, effective May 4, 2009.

See: 40 N.J.R. 6391(a), 41 N.J.R. 2017(a).

In (a)2, inserted a comma following “Areas” and “developmental.”; and in (a)7, inserted “agent” and “”, consistent with N.J.A.C. 13:44K-5.4”.

### 13:44K-5.3 Delegation of occupational therapy services

(a) A licensed occupational therapist may delegate selected occupational therapy services to licensed occupational therapy assistants, temporary licensed occupational therapists, temporary licensed occupational therapy assistants and to occupational therapy students fulfilling the required fieldwork

component of their educational training, provided the services are within the scope of practice of the individual to whom they are delegated.

(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 close, routine or general supervision. 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.

Amended by R.2009 d.141, effective May 4, 2009.  
See: 40 N.J.R. 6391(a), 41 N.J.R. 2017(a).

In (a), deleted "within his or her lawful scope of practice" following "therapy services", and inserted "; provided the services are within the scope of practice of the individual to whom they are delegated"; and in the introductory paragraph of (c), deleted "either" preceding "close", and deleted the former third sentence.

#### 13:44K-5.4 Use of physical agent modalities

(a) A licensed occupational therapist may use physical agent modalities as set forth in this section for the purpose of enhancing the functional performance of a client. For purposes of this section, "physical agent modalities" shall mean those modalities that produce a biophysical response through the use of light, water, temperature, sound, electricity or mechanical devices.

(b) A licensed occupational therapist may use superficial thermal agents, such as hydrotherapy/whirlpool, cryotherapy (cold packs, ice), fluidotherapy, hot packs, paraffin, water, infrared light and other commercially available heating and cooling technologies and mechanical devices, such as vasopneumatic and continuous passive motion devices.

(c) A licensed occupational therapist shall demonstrate competency, as provided in (e) or (f) below, prior to using any of the following advanced physical agent modalities: diathermy; high-voltage galvanic stimulation; micro current stimulation; transcutaneous electrical nerve stimulation; neuromuscular electrical stimulation; iontophoresis; therapeutic ultrasound; phonophoresis; and cold lasers.

(d) A provider of a training course in the use of advanced physical agent modalities may obtain Council approval of the course upon submission of documentation verifying that the course satisfies the requirements set forth in (e) below. Council approval for a training course shall be valid for one year. Resubmission of course documentation shall be required for renewal of course approval and whenever a provider changes the course content of an approved training course.

(e) A licensed occupational therapist may use advanced physical agent modalities if he or she has completed a Council-approved training course, which meets the following requirements:

1. The training course shall include at least 30 hours of didactic instruction. For purposes of this subsection, "didactic instruction" means live, in-person instruction and may include interactive telephonic or electronic instruction, but shall not include videotaped or audiotaped instruction. The training course shall include:

- i. Four hours of training in the use of heat wave physical agent modalities;
- ii. Sixteen hours of training in the use of electric wave physical agent modalities;
- iii. Six hours of training in the use of sound wave physical agent modalities; and
- iv. Four hours of training in the use of light wave physical agent modalities;

2. The training course shall include instruction in the following:

- i. Principles of physics related to specific properties of light, water, temperature, sound or electricity, as indicated by each modality;
- ii. Physiological, neurophysiological and electrophysiological changes, as indicated, which occur as a result of the application of each modality;
- iii. The response of normal and abnormal tissue to the application of each modality;

iv. Indications or contraindications related to the selection and application of each modality;

v. Guidelines for educating clients, including instructing about the process and possible outcomes of treatment, including risks and benefits;

vi. Safety rules and precautions related to each modality;

vii. Methods of documenting the effectiveness of the immediate and long-term effects of treatment;

viii. Characteristics of the equipment, including safe operation, adjustment and care of the equipment; and

ix. Hands-on application of each modality by each course participant. Such instruction shall be provided in-person. Interactive telephonic or electronic instruction in the application of modalities shall not be permitted; and

3. The primary instructor of the course shall be a licensed occupational therapist, a licensed physical therapist, a licensed physical therapist assistant or a licensed physician.

(f) A licensed occupational therapist may use advanced physical agent modalities if he or she holds a current certification from the Hand Therapy Certification Commission or any other national organization that utilizes substantially similar certification standards.

(g) A licensed occupational therapist shall retain documentation relating to his or her training in the use of advanced physical agent modalities pursuant to (e) or (f) above and shall make such documentation available to the Council upon request. The documentation shall include, if applicable:

1. The name and address of the person or organization presenting the program, workshop or seminar;

2. The name and address of the facility where the program, workshop or seminar was presented;

3. A copy of the program, workshop or seminar syllabus, which includes a detailed description of the learning objectives and teaching methods employed in the course and the qualifications of the instructor(s); and

4. A certificate of completion from the program, workshop or seminar sponsor.

(h) A licensed occupational therapist may apply to the Council for approval of a course in the use of advanced physical agent modalities that has not been pre-approved by the Council. The licensee shall submit the documentation set forth in (g) above to the Council for review.

(i) A licensed occupational therapist may delegate the application of the superficial thermal agent and mechanical device modalities set forth in (b) above to a licensed occupational therapy assistant consistent with the requirements of N.J.A.C. 13:44K-5.3. Delegation of the application of such

modalities to anyone other than a licensed occupational therapy assistant shall be deemed professional misconduct and may subject a licensee to the penalties set forth in N.J.S.A. 45:1-21 et seq.

(j) A licensed occupational therapist shall not delegate the application of the advanced physical agent modalities set forth in (c) above. Delegation of advanced physical agent modalities shall be deemed professional misconduct and may subject a licensee to the penalties set forth in N.J.S.A. 45:1-21 et seq.

(k) A licensed occupational therapist who uses the advanced physical agent modalities set forth in (c) above without having satisfied the requirements set forth in (e) or (f) above shall be deemed to have engaged in professional misconduct and may be subject to the penalties set forth in N.J.S.A. 45:1-21 et seq.

(l) A licensed occupational therapist who uses the advanced physical agent modalities set forth in (c) above shall submit documentation verifying that he or she has obtained training in the use of advanced physical agent modalities that is substantially similar to the requirements set forth in (e) above on or before May 4, 2010. After May 4, 2010, a licensed occupational therapist shall meet the requirements set forth in (e) or (f) above in order to use advanced physical agent modalities.

(m) Notwithstanding the fact that a licensed occupational therapist is permitted to use advanced physical agent modalities because he or she has satisfied the training requirements of this section, a licensed occupational therapist shall not use a specific physical agent modality device that he or she has not been trained to use until he or she is familiar with the device's proper use and contraindications. Failure to comply with this section shall be deemed professional misconduct and may subject a licensed occupational therapist to the penalties set forth in N.J.S.A. 45:1-21 et seq.

New Rule, R.2009 d.141, effective May 4, 2009.  
See: 40 N.J.R. 6391(a), 41 N.J.R. 2017(a).

## SUBCHAPTER 6. SUPERVISION OF OCCUPATIONAL THERAPY ASSISTANTS

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

(a) A licensed occupational therapy assistant shall provide occupational therapy services only under the supervision of a licensed occupational therapist 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.

Amended by R.2009 d.141, effective May 4, 2009.  
See: 40 N.J.R. 6391(a), 41 N.J.R. 2017(a).

In (a), substituted "provide occupational therapy services" for "work", and deleted "on a regularly scheduled basis" following "therapist".

### 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 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, routine or general supervision of an occupational therapy assistant.

(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 has been engaged in the practice of occupational therapy for less than one year on a full-time basis.

(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, prior to supervising any person engaged in the practice of occupational therapy services, an occupational therapist shall have at least 1,200 hours of work experience obtained in no less than one year and in no more than three years of practice.

(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.

Amended by R.2009 d.141, effective May 4, 2009.  
See: 40 N.J.R. 6391(a), 41 N.J.R. 2017(a).

In (d), deleted ", as defined in this section" from the end of the first sentence, and deleted the second sentence; and rewrote (e) and (g).

### 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)