

## Chapter 42a Occupational Therapy Practice Act

### Part 1 General Provisions

#### **58-42a-101 Title.**

This chapter is known as the "Occupational Therapy Practice Act."

Enacted by Chapter 240, 1994 General Session

#### **58-42a-102 Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Board" means the Board of Occupational Therapy created in Section 58-42a-201.
- (2)
  - (a) "Individual treatment plan" means a written record composed for each client by a person licensed under this chapter to engage in the practice of occupational therapy.
  - (b) "Individual treatment plan" includes:
    - (i) planning and directing specific exercises and programs to improve sensory integration and motor functioning at the level of performance neurologically appropriate for the individual's stage of development;
    - (ii) establishing a program of instruction to teach a client skills, behaviors, and attitudes necessary for the client's independent productive, emotional, and social functioning;
    - (iii) analyzing, selecting, and adapting functional exercises to achieve and maintain the client's optimal functioning in activities of daily living and to prevent further disability; and
    - (iv) planning and directing specific programs to evaluate and enhance perceptual, motor, and cognitive skills.
- (3) "Occupational therapist" means a person licensed under this chapter to practice occupational therapy.
- (4) "Occupational therapy aide" means a person who is not licensed under this chapter but who provides supportive services under the supervision of an occupational therapist or occupational therapy assistant.
- (5) "Occupational therapy assistant" means a person licensed under this chapter to practice occupational therapy under the supervision of an occupational therapist as described in Sections 58-42a-305 and 58-42a-306.
- (6)
  - (a) "Practice of occupational therapy" means the therapeutic use of everyday life activities with an individual:
    - (i) that has or is at risk of developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction; and
    - (ii) to develop or restore the individual's ability to engage in everyday life activities by addressing physical, cognitive, psychosocial, sensory, or other aspects of the individual's performance.
  - (b) "Practice of occupational therapy" includes:
    - (i) establishing, remediating, or restoring an undeveloped or impaired skill or ability of an individual;
    - (ii) modifying or adapting an activity or environment to enhance an individual's performance;

- (iii) maintaining and improving an individual's capabilities to avoid declining performance in everyday life activities;
- (iv) promoting health and wellness to develop or improve an individual's performance in everyday life activities;
- (v) performance-barrier prevention for an individual, including disability prevention;
- (vi) evaluating factors that affect an individual's activities of daily living in educational, work, play, leisure, and social situations, including:
  - (A) body functions and structures;
  - (B) habits, routines, roles, and behavioral patterns;
  - (C) cultural, physical, environmental, social, virtual, and spiritual contexts and activity demands that affect performance; and
  - (D) motor, process, communication, interaction, and other performance skills;
- (vii) providing interventions and procedures to promote or enhance an individual's safety and performance in activities of daily living in educational, work, and social situations, including:
  - (A) the therapeutic use of occupations and exercises;
  - (B) training in self-care, self-management, home-management, and community and work reintegration;
  - (C) the development, remediation, or compensation of behavioral skills and physical, cognitive, neuromuscular, and sensory functions;
  - (D) the education and training of an individual's family members and caregivers;
  - (E) care coordination, case management, and transition services;
  - (F) providing consulting services to groups, programs, organizations, or communities,
  - (G) modifying the environment and adapting processes, including the application of ergonomic principles;
  - (H) assessing, designing, fabricating, applying, fitting, and providing training in assistive technology, adaptive devices, orthotic devices, and prosthetic devices;
  - (I) assessing, recommending, and training an individual in techniques to enhance functional mobility, including wheelchair management;
  - (J) driver rehabilitation and community mobility;
  - (K) enhancing eating and feeding performance; and
  - (L) applying physical agent modalities, managing wound care, and using manual therapy techniques to enhance an individual's performance skills, if the occupational therapist has received the necessary training as determined by division rule in collaboration with the board.
- (7) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-42a-501.
- (8) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-42a-502.

Amended by Chapter 432, 2015 General Session

**58-42a-103 Rulemaking.**

When exercising rulemaking authority under this chapter, the division shall comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Enacted by Chapter 432, 2015 General Session

## **Part 2 Board**

### **58-42a-201 Board.**

- (1) There is created the Board of Occupational Therapy consisting of three licensed occupational therapists, one licensed occupational therapy assistant, and one member of the general public.
- (2) The board shall be appointed and serve in accordance with Section 58-1-201.
- (3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203.
- (4) The board shall designate one of its members on a permanent or rotating basis to:
  - (a) assist the division in reviewing complaints concerning the unlawful or unprofessional practice of a licensee; and
  - (b) advise the division in its investigation of these complaints.
- (5) A board member who has, under Subsection (4), reviewed a complaint or advised in its investigation may not participate with the board while the board serves as a presiding officer of an administrative proceeding concerning the complaint.

Amended by Chapter 432, 2015 General Session

## **Part 3 Licensing**

### **58-42a-301 Licensure required -- License classification.**

- (1) A license is required to engage in the practice of occupational therapy, except as specifically provided in Section 58-1-307 or 58-42a-304.
- (2) The division shall issue to a person who qualifies under this chapter a license in the classification of:
  - (a) occupational therapist; or
  - (b) occupational therapy assistant.
- (3) Nothing in this chapter shall permit an individual licensed under this chapter to engage in the practice of mental health therapy.

Enacted by Chapter 240, 1994 General Session

### **58-42a-302 Qualifications for licensure.**

- (1) An applicant for licensure as an occupational therapist shall:
  - (a) submit an application in a form as prescribed by the division;
  - (b) pay a fee as determined by the department under Section 63J-1-504;
  - (c) graduate with a bachelor's or graduate degree for the practice of occupational therapy from an education program accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education, a predecessor organization, or an equivalent organization as determined by division rule;
  - (d) if applying for licensure on or after July 1, 2015, complete a minimum of 24 weeks of supervised fieldwork experience;
  - (e) pass an examination approved by the division in consultation with the board and administered by the National Board for Certification in Occupational Therapy, or by another nationally

- recognized credentialing body as approved by division rule, to demonstrate knowledge of the practice, skills, theory, and professional ethics related to occupational therapy; and
- (f) if the applicant is applying to participate in the Occupational Therapy Licensure Compact under Chapter 42b, Occupational Therapy Licensure Compact, consent to a criminal background check in accordance with Section 58-42a-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) All applicants for licensure as an occupational therapy assistant shall:
- (a) submit an application in a form as prescribed by the division;
- (b) pay a fee as determined by the department under Section 63J-1-504;
- (c) graduate from an educational program for the practice of occupational therapy as an occupational therapy assistant that is accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education, a predecessor organization, or an equivalent organization as determined by division rule;
- (d) if applying for licensure on or after July 1, 2015, complete a minimum of 16 weeks of supervised fieldwork experience;
- (e) pass an examination approved by the division in consultation with the board and administered by the National Board for Certification in Occupational Therapy, or by another nationally recognized credentialing body as approved by division rule, to demonstrate knowledge of the practice, skills, theory, and professional ethics related to occupational therapy; and
- (f) if the applicant is applying to participate in the Occupational Therapy Licensure Compact under Chapter 42b, Occupational Therapy Licensure Compact, consent to a criminal background check in accordance with Section 58-42a-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) Notwithstanding the other requirements of this section, the division may issue a license as an occupational therapist or as an occupational therapy assistant to an applicant who:
- (a) consents to a criminal background check in accordance with Section 58-42a-302 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
- (b)
- (i) meets the requirements of receiving a license by endorsement under Section 58-1-302; or
- (ii) has been licensed in a state, district, or territory of the United States, or in a foreign country, where the education, experience, or examination requirements are not substantially equal to the requirements of this state, if the applicant passes the applicable examination described in Subsection (1)(e) or (2)(e).

Amended by Chapter 221, 2022 General Session

**58-42a-302.1 Criminal background check.**

- (1) An applicant for licensure under this chapter who requires a criminal background check shall:
- (a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and
- (b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.
- (2) The division shall:
- (a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is

- authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;
- (b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and
  - (c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.
- (3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:
- (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;
  - (b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and
  - (c) provide the results from the state, regional, and nationwide criminal history background checks to the division.
- (4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.
- (5) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.
- (6)
- (a) A new occupational therapist assistant license issued under Subsection 58-42a-302(2) is conditional pending completion of the criminal background check.
  - (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required in Subsection 58-42a-302(2) demonstrates the applicant has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division.
  - (c) A person whose conditional license has been revoked under Subsection (6)(b) is entitled to a postrevocation hearing to challenge the revocation.
  - (d) The division shall conduct a postrevocation hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- (7) The division may not issue a letter of qualification to participate in the Occupational Therapy Licensure Compact until the criminal background check described in this section is completed.

Enacted by Chapter 221, 2022 General Session

**58-42a-303 Term of license -- Expiration -- Renewal.**

- (1) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by division rule.
- (2) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.
- (3) Each license automatically expires on the expiration date shown on the license unless the licensee renews it in accordance with Section 58-1-308.

Amended by Chapter 432, 2015 General Session

**58-42a-303.5 Continuing education.**

- (1) As a condition for renewal of a license under this chapter, a licensee shall complete 24 hours of qualified continuing professional education, in accordance with standards defined by division rule in collaboration with the board, during each two-year licensure cycle.
- (2) If a renewal cycle is extended or shortened under Subsection (1), the continuing education hours required for license renewal under this section shall be increased or decreased proportionally.

Enacted by Chapter 432, 2015 General Session

**58-42a-304 Exemptions from licensure.**

In addition to the exemptions from licensure in Section 58-1-307, the following may engage in the stated limited acts or practices without being licensed under this chapter:

- (1) a person licensed in the state who is engaging in the practice of the person's profession or occupation as defined in statute under which the person is licensed;
- (2) a person pursuing a course of study leading to a degree for the practice of occupational therapy at an accredited education program, if that person is acting under appropriate supervision and is designated by a title that clearly indicates the person's status as a student; and
- (3) a person fulfilling the supervised fieldwork experience requirements for licensure described in Section 58-42a-302, if the person is acting under appropriate supervision and is designated by a title that clearly indicates the person is performing supervised fieldwork experience to qualify for a license under this chapter.

Amended by Chapter 432, 2015 General Session

**58-42a-305 Limitation upon occupational therapy services provided by an occupational therapy assistant and an occupational therapy aide.**

- (1) An occupational therapy assistant:
  - (a) may only perform occupational therapy services under the supervision of an occupational therapist as described in Section 58-42a-306;
  - (b) may not write an individual treatment plan;
  - (c) may not approve or cosign modifications to an individual treatment plan; and
  - (d) may contribute to and maintain an individual treatment plan.
- (2) An occupational therapy aide:
  - (a) may only perform occupational therapy services under the direct supervision of an occupational therapist or an occupational therapy assistant;
  - (b) may not write, modify, contribute, or maintain an individual treatment plan; and
  - (c) may only perform tasks that are repetitive and routine for which the aide has been trained and has demonstrated competence.

Amended by Chapter 432, 2015 General Session

**58-42a-306 Supervision requirements.**

An occupational therapist who is supervising an occupational therapy assistant shall:

- (1) write or contribute to an individual treatment plan before referring a client to a supervised occupational therapy assistant for treatment;
- (2) approve and cosign on all modifications to the individual treatment plan;
- (3) meet face to face with the supervised occupational therapy assistant as often as necessary but at least once every two weeks in person or by video conference, and at least one time

every month in person, to adequately provide consultation, advice, training, and direction to the occupational therapy assistant;

- (4) meet with each client who has been referred to a supervised occupational therapy assistant at least once each month, to further assess the patient, evaluate the treatment, and modify the individual's treatment plan, except that if the interval of client care occurs one time per month or less, the occupational therapist shall meet with the client at least once every four visits;
- (5) supervise no more than two full-time occupational therapy assistants at one time, or four part-time occupational therapy assistants if the combined work hours of the assistants do not exceed 40 hours per week, unless otherwise approved by the division in collaboration with the board;
- (6) remain responsible for client treatment provided by the occupational therapy assistant; and
- (7) fulfill any other supervisory responsibilities as determined by division rule.

Amended by Chapter 432, 2015 General Session

## **Part 4 License Denial and Discipline**

### **58-42a-401 Denial of license -- Discipline.**

The division may refuse to issue a license to an applicant, refuse to renew the license of a licensee, revoke, suspend, restrict, or place on probation the license of a licensee, issue a public or private reprimand to a licensee, and issue a cease and desist order under the grounds specified in Section 58-1-401.

Enacted by Chapter 240, 1994 General Session

## **Part 5 Unlawful and Unprofessional Conduct**

### **58-42a-501 Unlawful conduct.**

"Unlawful conduct," as defined in Section 58-1-501 and as may be further defined by division rule, includes:

- (1) engaging or offering to engage in the practice of occupational therapy unless licensed under this chapter or exempted from licensure under Section 58-1-307 or 58-42a-304;
- (2) using the title occupational therapist or occupational therapy assistant unless licensed under this chapter; and
- (3) obtaining a license under this chapter by means of fraud, misrepresentation, or concealment of a material fact.

Amended by Chapter 339, 2020 General Session

### **58-42a-502 Unprofessional conduct.**

"Unprofessional conduct," as defined in Section 58-1-501 and as may be further defined by division rule, includes:

- (1) being convicted of a crime in any court except for minor offenses;

- (2) violating a lawful order, rule, or regulation adopted by the division in consultation with the board;
- (3) providing substandard care as an occupational therapist due to a deliberate or negligent act or failure to act regardless of whether actual injury to the client is established;
- (4) providing substandard care as an occupational therapy assistant, including exceeding the authority to perform components of intervention selected and delegated by the supervising occupational therapist, regardless of whether actual injury to the client is established;
- (5) knowingly delegating responsibilities related to the practice of occupational therapy to an individual, including an occupational therapy aide, who does not have the knowledge, skills, or abilities to perform those responsibilities;
- (6) failing to provide appropriate supervision in accordance with this chapter to an occupational therapy assistant or occupational therapy aide;
- (7) practicing as an occupational therapist or occupational therapy assistant when physical or mental impairment of the occupational therapist or occupational therapy assistant prevents the provision of competent services to clients;
- (8) having had an occupational therapist, occupational therapy assistant, or equivalent license or application refused, revoked, suspended, or other disciplinary action taken in another state, United States territory, or country;
- (9) engaging in sexual misconduct, including:
  - (a) engaging in or soliciting a sexual relationship with a client;
  - (b) making a sexual advance, requesting a sexual favor, or engaging in physical contact of a sexual nature with a client; and
  - (c) engaging in verbal or physical conduct of a sexual nature in the presence of a client; and
- (10) abandoning or neglecting a client in need of immediate professional care without making reasonable arrangements for the continuation of care.

Enacted by Chapter 432, 2015 General Session