

**CHAPTER 42. STATE BOARD OF OCCUPATIONAL THERAPY
EDUCATION AND LICENSURE**

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Authority

The provisions of this Chapter 42 issued under section 5 of the Occupational Therapy Practice Act (63 P. S. § 1505), unless otherwise noted.

Source

The provisions of this Chapter 42 adopted January 11, 1985, effective January 12, 1985, 15 Pa.B. 113, unless otherwise noted.

Cross References

This chapter cited in 49 Pa. Code § 41.26 (relating to professional corporations); and 49 Pa. Code § 47.21 (relating to professional corporations).

GENERAL PROVISIONS**§ 42.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

AOA—American Occupational Therapy Association.

Act—The Occupational Therapy Practice Act (63 P. S. §§ 1501—1519).

Applicant—An individual seeking licensure under the act as an occupational therapist or an occupational therapy assistant.

Board—The State Board of Occupational Therapy Education and Licensure of the Commonwealth.

Certification—Recognition by the NBCOT that an individual is a registered occupational therapist or a certified occupational therapy assistant.

Commissioner—The Commissioner of Professional and Occupational Affairs.

Equivalent program—A masters or certificate program in occupational therapy approved by the Board.

Licensee—An individual who has been licensed under the act as an occupational therapist or an occupational therapy assistant.

Licensure examination—The Certification Examination for Occupational Therapist, Registered, or the Certification Examination for Occupational Therapy Assistant prepared and administered by the NBCOT.

NBCOT—National Board for Certification in Occupational Therapy, Inc.

Service recipient—The patient or client who directly receives care or services from the licensee.

Surrogate—The spouse, parent or guardian of the service recipient.

Authority

The provisions of this § 42.1 issued under sections 5(b) and 6(a)(2) of the Occupational Therapy Practice Act (63 P. S. §§ 1505(b) and 1506(a)(2)).

Source

The provisions of this § 42.1 adopted January 27, 1989, effective January 28, 1989, 19 Pa.B. 335; amended December 7, 2001, effective December 8, 2001, 31 Pa.B. 6663. Immediately preceding text appears at serial page (267180).

Cross References

This section cited in 49 Pa. Code § 42.13 (relating to application for licensure).

§ 42.2. Applicability of general rules.

(a) Under 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) is applicable to practice and procedure before the Board.

(b) Official Board meetings will be conducted according to Roberts' Rules of Order.

Authority

The provisions of this § 42.2 issued under section 5(b) of the act of June 15, 1982 (P.L. 502, No. 140) (63 P.S. § 1505(b)).

Source

The provisions of this § 42.2 adopted January 27, 1989, effective January 28, 1989, 19 Pa.B. 335.

§ 42.3. Meetings of the Board.

Action may be taken by the Board at a constituted meeting at which a majority of appointed Board members are present. A simple majority of the members present and voting determine action to be taken by the Board. Minutes will be kept of Board meetings, and, upon approval by the Board, will become the official minutes.

Authority

The provisions of this § 42.3 issued under sections 5(b) and 6(a)(2) of the Occupational Therapy Practice Act (63 P.S. §§ 1505(b) and 1506(a)(2)).

Source

The provisions of this § 42.3 adopted January 27, 1989, effective January 28, 1989, 19 Pa.B. 335; amended December 7, 2001, effective December 8, 2001, 31 Pa.B. 6663. Immediately preceding text appears at serial page (223095).

LICENSURE**§ 42.11. Licensure examination.**

(a) The licensure examinations will be scheduled at least twice each year at times and places designated by the NBCOT.

(b) The applicant shall apply to NBCOT for admission to the licensure examination and shall pay the required fee at the direction of NBCOT.

(c) The applicant is responsible for directing that NBCOT send the applicant's examination results and other information requested to the Board.

(d) The passing score shall be that established by the NBCOT for each administration of the licensure examination.

(e) After the first failure, the applicant may take the next scheduled examination or the examination following the next scheduled examination. After a second or successive failure of the licensure examination, the Board may require the applicant to complete additional training approved by the Board. Written notice will be provided to the applicant as to what additional training will be required.

Authority

The provisions of this § 42.11 issued under sections 5(b) and 6(a)(2) of the Occupational Therapy Practice Act (63 P. S. §§ 1505(b) and 1506(a)(2)).

Source

The provisions of this § 42.11 adopted January 27, 1989, effective January 28, 1989, 19 Pa.B. 335; amended December 7, 2001, effective December 8, 2001, 31 Pa.B. 6663. Immediately preceding text appears at serial pages (223095) to (223096).

§ 42.12. Waiver of licensure examination.

An applicant may be licensed without examination who presents one of the following to the Board:

(1) Satisfactory evidence on forms provided by the Board, that the applicant is licensed or registered as an occupational therapist or occupational therapy assistant in another state, territory of the United States or the District of Columbia, which has requirements for licensure substantially equivalent to those of the Commonwealth.

(2) Satisfactory evidence that the applicant has successfully completed the NBCOT Certification Examination and is currently certified by NBCOT as a registered occupational therapist or an occupational therapy assistant.

Authority

The provisions of this § 42.12 issued under sections 5(b) and 6(a)(2) of the Occupational Therapy Practice Act (63 P. S. §§ 1505(b) and 1506(a)(2)).

Source

The provisions of this § 42.12 adopted January 27, 1989, effective January 28, 1989, 19 Pa.B. 335; amended December 7, 2001, effective December 8, 2001, 31 Pa.B. 6663. Immediately preceding text appears at serial page (223096).

Cross References

This section cited in 49 Pa. Code § 42.13 (relating to application for licensure); 49 Pa. Code § 42.14 (relating to foreign-trained applicants); 49 Pa. Code § 42.16 (relating to biennial renewal; inactive status; failure to renew).

§ 42.13. Application for licensure.

To apply for licensure, an applicant shall pay the required fee and submit evidence satisfactory to the Board on forms provided by the Board that the applicant meets the following criteria:

(1) Is of good moral character.

(2) Has met the academic requirements of an educational program in occupational therapy approved by the Board, or an equivalent program as defined in § 42.1 (relating to definitions).

(3) Has successfully completed a period of supervised fieldwork experience at a recognized educational institute or a training program approved by the educational institution where the academic requirements were met as follows:

(i) For an occupational therapist, a minimum of 6 months of supervised fieldwork.

(ii) For an occupational therapy assistant, a minimum of 2 months of supervised fieldwork.

(4) Has passed the licensure examination or has qualified for a waiver of the licensure examination under § 42.12 (relating to waiver of licensure examination).

Authority

The provisions of this § 42.13 issued under section 5(b) of the Occupational Therapy Practice Act (63 P. S. § 1505(b)).

Source

The provisions of this § 42.13 adopted January 27, 1989, effective January 28, 1989, 19 Pa.B. 335.

Cross References

This section cited in 49 Pa. Code § 42.14 (relating to foreign-trained applicants); and 49 Pa. Code § 42.15 (relating to application for temporary license).

§ 42.14. Foreign-educated applicants.

(a) To apply for licensure, the foreign-educated applicant shall, before examination, submit evidence satisfactory to the Board, on forms provided by the Board, that the applicant meets the following requirements:

(1) Is of good moral character.

(2) Has completed educational requirements substantially equal to § 42.13(2) (relating to application for licensure). The Board will accept a credentials evaluation done by the NBCOT as proof that the foreign-educated applicant has completed the educational requirements.

(b) The foreign-educated applicant may be licensed by the Board, if he has complied with subsection (a) and has met one of the following criteria:

(1) Passed the licensure examination.

(2) Qualified for a waiver of the licensure examination under § 42.12 (relating to waiver of licensure examination).

Authority

The provisions of this § 42.14 issued under sections 5(b) and 6(a)(2) of the Occupational Therapy Practice Act (63 P. S. §§ 1505(b) and 1506(a)(2)).

Source

The provisions of this § 42.14 adopted January 27, 1989, effective January 28, 1989, 19 Pa.B. 335; amended December 7, 2001, effective December 8, 2001, 31 Pa.B. 6663. Immediately preceding text appears at serial pages (223097) to (223098).

§ 42.15. Application for temporary license.

(a) The Board may issue a temporary license to an applicant who pays the required fee and submits evidence satisfactory to the Board, on forms provided by the Board, that the applicant:

(1) Has met requirements for licensure under § 42.13 (relating to application for licensure).

(2) Is eligible and has applied to take the licensure examination or has failed the licensure examination but applied to retake the examination on the next scheduled date if the following applies:

(i) The temporary license shall expire automatically upon the failure of the applicant to take the licensure examination, except for an appropriate excuse approved by the Board.

(ii) The temporary license shall expire automatically upon receipt by the applicant of notice of failure of reexamination, and the applicant may not be eligible for another temporary license for a period of 1 year from the date of the notice.

(iii) Even after 1 year from the date of notice of failure of reexamination, the applicant may not be issued another temporary license, except at the discretion of the Board.

(b) A temporary license issued under subsection (a) authorizes the practice of occupational therapy only as an assistant under the direct supervision of an occupational therapist licensed under the act and this chapter.

(c) The Board may also issue a temporary license to an applicant who:

(1) Pays the required fee.

(2) Submits evidence satisfactory to the Board, on forms provided by the Board, that the applicant is not a resident and is not licensed in this Commonwealth.

(3) Submits evidence to the Board that the applicant is either licensed under the laws of the District of Columbia or of a state or territory of the United States which has licensure requirements substantially equal to the requirements of the act or has met the requirements for certification, as an occupational therapist registered or a certified occupational therapy assistant, established by NBCOT.

(4) Certifies that the applicant will perform services for not longer than a 6 consecutive month period in a calendar year, in association with an occupational therapist licensed under the act.

Authority

The provisions of this § 42.15 issued under sections 5(b) and 6(a)(2) of the Occupational Therapy Practice Act (63 P. S. §§ 1505(b) and 1506(a)(2)).

Source

The provisions of this § 42.15 adopted January 27, 1989, effective January 28, 1989, 19 Pa.B. 335; amended December 7, 2001, effective December 8, 2001, 31 Pa.B. 6663. Immediately preceding text appears at serial pages (223098) and (267181).

§ 42.16. Biennial renewal; inactive status; failure to renew.

(a) A license granted under the act expires on June 30 of every odd numbered year unless renewed for the next biennium.

(b) Biennial renewal forms and other forms and literature to be distributed by the Board will be forwarded to the last mailing address given to the Board by the licensee. Whenever the licensee changes his mailing address of record, he shall notify the Board, in writing, within 10 days after making the address change.

(c) To retain the right to engage in practice, the licensee shall renew his license in the manner prescribed by the Board and pay the required fee prior to the expiration of the next biennium.

(d) When a license is renewed beyond June 30 of an odd numbered year, a penalty fee of \$5 for each month or part of a month that the licensee has engaged in practice beyond the renewal date will be charged in addition to the renewal fee.

(e) A licensee who does not intend to practice in this Commonwealth and who does not desire to renew his license shall inform the Board in writing. Written confirmation of the Board's receipt of his letter and notice that his license has been classified as inactive will be forwarded to the licensee.

(f) The licensee who either fails to pay the biennial renewal fee or who notifies the Board that he does not desire to renew his license will not be sent biennial renewal forms for following biennial renewal periods unless the licensee notifies the Board, in writing, of his desire to reactivate the license.

(g) A licensee who is applying to return to active status is required to pay fees which are due, submit a sworn statement stating the period of time during which he was not engaged in practice in this Commonwealth, submit a resume of professional activities since the most recent licensure, and submit a letter of good standing from another state or territory where he is currently licensed or registered to practice.

(h) The applicant for licensure renewal will not be assessed a fee or penalty for preceding biennial periods in which the applicant did not engage in practice in this Commonwealth.

(i) If the applicant has failed to renew his license and has not practiced for longer than 4 years, the applicant shall pass the licensure examination or qualify for a waiver of examination under § 42.12 (relating to waiver of licensure examination) before his license is renewed. In addition, the Board may require the applicant to do one or more of the following:

- (1) Be personally interviewed by a designated Board member or representative.
- (2) Pass an oral practical examination.
- (3) Prove physical and mental fitness to practice in this Commonwealth.
- (j) If other conditions of the act and this chapter have been met, active status will be restored upon payment of fees and penalties which have accrued.
- (k) A licensee who has engaged in practice during a period in which he was not licensed may be subject to criminal prosecution under section 16(c) of the act (63 P. S. § 1516(c)).

Authority

The provisions of this § 42.16 issued under section 5(b) of the Occupational Therapy Practice Act (63 P. S. § 1505(b)).

Source

The provisions of this § 42.16 adopted January 27, 1989, effective January 28, 1989, 19 Pa.B. 335.

§ 42.17. Licensure fees.

(a) The fee schedule for licensure as an occupational therapist shall be as follows:

Application for license	\$30
Biennial renewal of license	\$55
Temporary license.	\$20
Verification of licensure	\$15
Certification of license, scores or hours	\$25

(b) The fee schedule for licensure as an occupational therapy assistant shall be as follows:

Application for license	\$30
Biennial renewal of license	\$45
Temporary license.	\$20
Verification of licensure	\$15
Certification of license, scores or hours	\$25

Authority

The provisions of this § 42.17 issued under section 5 of the Occupational Therapy Practice Act (63 P. S. § 1505).

Source

The provisions of this § 42.17 adopted January 11, 1985, effective January 12, 1985, 15 Pa.B. 113; amended May 26, 2000, effective May 27, 2000, 30 Pa.B. 2597. Immediately preceding text appears at serial page (223100).

§ 42.18. [Reserved].**Source**

The provisions of this § 42.18 adopted January 17, 1992, effective January 18, 1992, 22 Pa.B. 273; reserved December 7, 2001, effective December 8, 2001, 31 Pa.B. 6663. Immediately preceding text appears at serial page (267182).

§ 42.19. Licensee's change of name or address; service of process and legal papers.

(a) A licensee's name and address on file with the Board shall be deemed the licensee's official name and address for the purpose of service of process and other legal papers.

(b) A licensee's name on file with the Board shall be the name that appears on the license unless that name is legally changed, in which case the licensee shall report the change and the reason for the change to the Board in writing within 10 days of the change.

(c) A licensee who changes an address on file with the Board shall notify the Board in writing within 10 days. Licensees who do not comply with this subsection shall bear full responsibility for failure to receive correspondence from the Board, including biennial renewal notification.

Authority

The provisions of this § 42.19 issued under sections 5(b) and 6(a)(2) of the Occupational Therapy Practice Act (63 P. S. §§ 1505(b) and 1506(a)(2)).

Source

The provisions of this § 42.19 adopted December 7, 2001, effective December 8, 2001, 31 Pa.B. 6663.

MINIMUM STANDARDS OF PRACTICE**§ 42.21. Delegation of duties to aides and other unlicensed personnel.**

(a) A licensee may delegate to aides and other unlicensed personnel duties associated with nontreatment aspects of occupational therapy services if the following conditions are met:

(1) The licensee who delegates a duty shall accept professional responsibility for the performance of that duty by the aide or other unlicensed person to whom it is delegated. Responsibility for the performance of a duty delegated by an occupational therapy assistant shall lie with both the assistant and with the occupational therapist who supervises that assistant.

(2) The aide or other unlicensed person does not perform an activity which requires licensure under the act.

(b) The following are examples of the lawful use of aides or other unlicensed personnel in the occupational therapy setting:

- (1) Transporting patients.
 - (2) Preparing or setting up a work area or equipment.
 - (3) Attending to the personal needs of patients/clients during treatment.
 - (4) Assisting patients/clients with nontreatment aspects of occupational therapy services, such as monitoring and cuing patients/clients as they participate in activities.
 - (5) Performing clerical and housekeeping activities.
- (c) The following are examples of the unlawful use of aides or other unlicensed personnel in the occupational therapy setting:
- (1) Evaluating patients/clients.
 - (2) Treating patients/clients.
 - (3) Recording occupational therapy progress reports on the chart of a patient/client.
- (d) Failure to comply with this section constitutes unprofessional conduct under section 16(a)(2) of the act (63 P. S. § 1516(a)(2)).

Authority

The provisions of this § 42.21 amended under sections 5(b) and 6(a)(2) of the Occupational Therapy Practice Act (63 P. S. §§ 1505(b) and 1506(a)(2)).

Source

The provisions of this § 42.21 adopted January 17, 1992, effective January 18, 1992, 22 Pa.B. 273; amended December 7, 2001, effective December 8, 2001, 31 Pa.B. 6663. Immediately preceding text appears at serial page (223101).

§ 42.22. Supervision of occupational therapy assistants.

- (a) Section 3 of the act (63 P. S. § 1503) provides that licensed occupational therapy assistants may assist in the practice of occupational therapy only under the supervision of an occupational therapist. "Under the supervision of an occupational therapist" means that an occupational therapist currently licensed by the Board:
- (1) Evaluates the patient/client.
 - (2) Prepares a written program plan.
 - (3) Assigns treatment duties based on that program plan to an occupational therapy assistant currently licensed by the Board who has been specifically trained to carry out those duties.
 - (4) Monitors the occupational therapy assistant's performance.
 - (5) Accepts professional responsibility for the occupational therapy assistant's performance.
- (b) Supervision includes the following:
- (1) Communicating to the occupational therapy assistant the results of patient/client evaluation and discussing the goals and program plan for the patient/client.

(2) Periodically reevaluating the patient/client and, if necessary, modifying the program plan.

(3) Case management.

(4) Determining program termination.

(5) Providing information, instruction and assistance as needed.

(6) Observing the occupational therapy assistant periodically.

(7) Preparing on a regular basis, but at least annually, a written appraisal of the occupational therapy assistant's performance and discussing that appraisal with the assistant.

(c) Notwithstanding subsections (a)(1) and (b)(2), the supervisor may assign to a competent occupational therapy assistant the administration of standardized tests, the performance of activities of daily living evaluations and other elements of patient/client evaluation and reevaluation that do not require the professional judgment and skill of an occupational therapist.

(d) The supervisor shall have supervisory contact with the occupational therapy assistant at least 10% of the time worked by the assistant in direct patient care. "Supervisory contact" means face-to-face individual contact, telephone communication, contact through written reports or group conferences among a supervisor and two or more supervisees. Face-to-face individual contact shall occur onsite at least once a month and shall include observation of the assistant performing occupational therapy. The specific mode, frequency and duration of other types of supervisory contact depend on the treatment setting, the occupational therapy assistant's caseload, the condition of patients/clients being treated by the assistant and the experience and competence of the assistant as determined by the supervisor. The supervisor shall ensure, however, that supervisory contact within each calendar month includes a combination of face-to-face, telephone and written communication.

(e) The supervisor shall maintain a supervisory plan and shall document the supervision of each occupational therapy assistant. Documentation shall include evidence of regular supervision and contact between the supervisor and the assistant.

(f) A supervisor who is temporarily unable to provide supervision shall arrange for substitute supervision by an occupational therapist currently licensed by the Board. The substitute shall provide supervision that is as rigorous and thorough as that provided by the permanent supervisor.

(g) Failure to comply with this section constitutes unprofessional conduct under section 16(a)(2) of the act (63 P. S. § 1516(a)(2)).

Authority

The provisions of this § 42.22 issued under section 5(b) of the Occupational Therapy Practice Act (63 P. S. § 1505(b)).

Source

The provisions of this § 42.22 adopted May 1, 1992, effective May 2, 1992, 22 Pa.B. 2334.

Cross References

This section cited in 49 Pa. Code § 42.24 (relating to Code of Ethics).

§ 42.23. Supervision of applicants with temporary licenses.

(a) Section 9(a)(3) of the act (63 P. S. § 1509(a)(3)) provides that an applicant for licensure who holds a temporary license shall practice occupational therapy or provide services “only as an assistant under the direct supervision of an occupational therapist licensed pursuant to this act.” With regard to a temporary licensee under section 9(a)(3), “direct supervision” means that:

(1) The supervisor is onsite at least 25% of the time worked by the temporary licensee and at all other times is available for prompt consultation by telephone or otherwise.

(2) The supervisor has face-to-face individual contact with the temporary licensee at least weekly in the case of a temporarily licensed occupational therapist and at least daily in the case of a temporarily licensed occupational therapy assistant. This contact shall include observation of the temporary licensee performing occupational therapy.

(3) In addition to the contact described in paragraph (2), the supervisor has face-to-face, telephone or written supervisory contact with the temporary licensee at least daily in the case of a temporarily licensed occupational therapist and as needed in the case of a temporarily licensed occupational therapy assistant. For purposes of this paragraph, face-to-face contact may include group conferences among the supervisor and two or more supervisees.

(b) For purposes of subsection (a)(1), “onsite” means that the supervisor is physically present and available in the facility or other location where the temporary licensee is working. When the facility comprises more than one contiguous building, availability means that the supervisor is readily accessible for face-to-face consultation with the supervisee.

(c) Subsection (a) provides minimum supervisory requirements. Supervisors shall intensify supervision consistent with a temporary licensee’s experience, competence and performance or when other factors, such as failing the licensing examination, indicate that greater oversight is needed.

(d) In addition to the responsibilities set out in subsection (a), the supervision of a temporary licensee requires that the supervisor:

- (1) Evaluate the patient/client.
- (2) Prepare a written program plan.
- (3) Assign treatment duties based on that program plan to a temporary licensee who has been specifically trained to carry out those duties.
- (4) Monitor the temporary licensee’s performance.

(5) Accept professional responsibility for the temporary licensee's performance.

(e) Supervision includes the following:

(1) Communicating to the temporary licensee the results of patient/client evaluation and discussing the goals and program plan for the patient/client.

(2) Periodically reevaluating the patient/client and, if necessary, modifying the program plan.

(3) Case management.

(4) Determining program termination.

(5) Providing information, instruction and assistance as needed.

(6) Preparing on a regular basis, but at least every 3 months, a written appraisal of the temporary licensee's performance and discussing that appraisal with the temporary licensee.

(f) Notwithstanding subsections (d)(1) and (2) and (e)(2), the supervisor may assign to a temporarily licensed occupational therapist elements of patient/client evaluation and reevaluation and elements of preparing a written program plan. These assignments shall be consistent with the training, experience and competence of the temporary licensee.

(g) Notwithstanding subsections (d)(1) and (e)(2), the supervisor may assign to a competent temporarily licensed occupational therapy assistant the administration of standardized tests, the performance of activities of daily living evaluations and other elements of patient/client evaluation and reevaluation that do not require the professional judgment and skill of an occupational therapist.

(h) The supervisor shall maintain a supervisory plan and shall document the supervision of each temporary licensee. Documentation shall include evidence of regular supervision and contact between the supervisor and the temporary licensee.

(i) A supervisor who is temporarily unable to provide supervision shall arrange for substitute supervision by an occupational therapist currently licensed by the Board. The substitute shall provide supervision that is as rigorous and thorough as that provided by the permanent supervisor.

(j) Failure to comply with this section constitutes unprofessional conduct under section 16(a)(2) of the act (63 P. S. § 1516(a)(2)).

Authority

The provisions of this § 42.23 issued under section 5(b) of the Occupational Therapy Practice Act (63 P. S. § 1505(b)).

Source

The provisions of this § 42.23 adopted May 1, 1992, effective May 2, 1992, 22 Pa.B. 2334.

Cross References

This section cited in 49 Pa. Code § 42.24 (relating to Code of Ethics).

§ 42.24. Code of Ethics.

Purpose. The Board adopts the following Code of Ethics to establish and maintain a high standard of integrity and dignity in the profession and to protect the public against unprofessional conduct on the part of licensees. The Code of Ethics is adapted with permission from the “Occupational Therapy Code of Ethics” of the American Occupational Therapy Association (revised July 1994).

(1) *Principle 1.* Licensees shall demonstrate a concern for the well-being of the recipients of their services. (beneficence)

(i) Licensees shall provide services in an equitable manner for all individuals.

(ii) Licensees shall maintain relationships that do not exploit the recipient of services sexually, physically, emotionally, financially, socially or in any other manner. Licensees shall avoid those relationships or activities that interfere with professional judgment and objectivity.

(iii) Licensees shall take all reasonable precautions to avoid harm to the recipient of services or to his property.

(2) *Principle 2.* Licensees shall respect the rights of the recipients of their services. (autonomy, privacy, confidentiality)

(i) Licensees shall collaborate with service recipients or their surrogates, or both, in determining goals and priorities throughout the intervention process.

(ii) Licensees shall fully inform the service recipients or their surrogates, or both, of the nature, potential risks and outcomes of any interventions.

(iii) Licensees shall obtain written informed consent from subjects involved in research activities indicating they have been fully advised of the potential risks and outcomes.

(iv) Licensees shall respect the individual’s right to refuse professional services or involvement in research or educational activities.

(v) Licensees shall protect the confidential nature of information gained from educational, practice, research and investigational activities.

(3) *Principle 3.* Licensees shall achieve and continually maintain high standards of competence. (duties)

(i) Licensees shall use procedures that conform to the standards of acceptable and prevailing occupational therapy practice.

(ii) Licensees shall take responsibility for maintaining competence by participating in professional development and education activities.

(iii) Licensees shall perform their duties on the basis of accurate and current information.

(iv) Licensees shall protect service recipients by ensuring that duties assumed by or assigned to other licensees are commensurate with their qualifications and experience.

(v) Licensees shall provide appropriate supervision to individuals for whom the licensees have supervisory responsibility.

(vi) Licensees shall refer recipients to other service providers or consult with other service providers when additional knowledge and expertise are required.

(4) *Principle 4.* Licensees shall comply with laws and regulations governing the practice of occupational therapy in this Commonwealth. (justice)

(i) Licensees shall understand and abide by applicable local, State and Federal laws.

(ii) Licensees shall inform employers employees, and colleagues about those laws and regulations that apply to the profession of occupational therapy.

(iii) Licensees shall require those they supervise in occupational therapy related activities to adhere to this chapter.

(iv) Licensees shall accurately record and report all information related to professional activities.

(5) *Principle 5.* Licensees shall provide accurate information about occupational therapy services. (veracity)

(i) Licensees shall accurately represent their qualifications, education, experience, training and competence.

(ii) Licensees shall disclose any affiliations that may pose a conflict of interest.

(iii) Licensees shall refrain from using or participating in the use of any form of communication that contains false, fraudulent, deceptive or unfair statements or claims.

(6) *Principle 6.* Licensees shall treat colleagues and other professionals with fairness, discretion and integrity. (fidelity, veracity)

(i) Licensees shall safeguard confidential information about colleagues and staff members.

(ii) Licensees shall accurately represent the qualifications, views, contributions and findings of colleagues.

(iii) Licensees shall report any breaches of the Board's law and this chapter to the Board.

Authority

The provisions of this § 42.24 issued under sections 5(b) and 6(a)(2) of the Occupational Therapy Practice Act (63 P. S. §§ 1505(b) and 1506(a)(2)).

Source

The provisions of this § 42.24 adopted May 29, 1992, effective May 30, 1992, 22 Pa.B. 2831; amended December 7, 2001, effective December 8, 2001, 31 Pa.B. 6663. Immediately preceding text appears at serial pages (267183) to (267184).

Cross References

This section cited in 49 Pa. Code § 42.46 (relating to confidentiality—waived).

§ 42.25. Orders.

(a) *Written orders.* An occupational therapist shall accept a referral in the form of a written order from a licensed physician, licensed optometrist or licensed podiatrist.

(b) *Oral orders.*

(1) An occupational therapist may accept a referral in the form of an oral order if it is impractical for the licensed physician, licensed optometrist or licensed podiatrist to provide the order in writing.

(2) An occupational therapist receiving an oral order shall immediately transcribe the order in the patient's medical record, including the date and time the order was received, and sign the medical record.

(3) The occupational therapist in a private office setting who has received an oral order shall obtain the countersignature of the licensed physician, licensed optometrist or licensed podiatrist who issued the order within 5 days of receiving the order.

(4) If the occupational therapist who receives an oral order provides services in a setting that is independent of the prescriber's setting, the occupational therapist may accept the countersignature of the ordering licensed physician, licensed optometrist or licensed podiatrist on a written copy of the order that is mailed or faxed to the occupational therapist.

(5) If an occupational therapist provides services in a facility licensed by the Department of Health, the countersignature of the ordering licensed physician, licensed optometrist or licensed podiatrist shall be obtained in accordance with the applicable regulations of the Department of Health governing the facility, including 28 Pa. Code §§ 211.3 and 601.31 (relating to oral and telephone orders; and acceptance of patients, plan of treatment and medical supervision).

Authority

The provisions of this § 42.25 amended under section 5(b) of the Occupational Therapy Practice Act (63 P. S. § 1505(b)).

Source

The provisions of this § 42.25 adopted May 26, 2000, effective May 27, 2000, 30 Pa.B. 2599; amended May 6, 2005, effective May 7, 2005, 35 Pa.B. 2750; amended August 17, 2007, effective August 18, 2007, 37 Pa.B. 4519. Immediately preceding text appears at serial page (311522).

DISCIPLINARY PROCEEDINGS**§ 42.31. Unprofessional conduct.**

A licensee who engages in unprofessional conduct is subject to disciplinary action under section 16 of the act (63 P. S. § 1516). Unprofessional conduct includes the following:

(1) Harassing, abusing or intimidating a patient physically, verbally or sexually.

(2) Divulging, without patient or family consent, or both, information gained in the patient-therapist relationship to anyone not a member of the patient's immediate family or not a health-care professional or educational team member, unless under a statute or court order.

- (3) Receiving a fee for referring a patient to a third person.
- (4) Accepting a patient for treatment or continuing treatment if benefit cannot reasonably be expected to accrue to the patient or client, or misleading a patient as to the benefits to be derived from occupational therapy.
- (5) Guaranteeing the results of therapy, consultation or procedure.
- (6) Practicing while using or under the influence of alcohol, narcotics or another type of drug, chemical or material which impairs judgment or coordination.
- (7) Practicing without reasonable skill and safety to patients due to a physical or mental condition which impairs judgment or coordination or addiction to alcohol, narcotics or another type of drug, chemical or material which impairs judgment or coordination.
- (8) Practicing outside the lawful scope of occupational therapy as defined in section 3 of the act (63 P. S. § 1503) or not in accordance with section 14 of the act (63 P. S. § 1514).

Authority

The provisions of this § 42.31 issued under sections 5(b) and 6(a)(2) of the Occupational Therapy Practice Act (63 P. S. §§ 1505(b) and 1506(a)(2)).

Source

The provisions of this § 42.31 adopted January 27, 1989, effective January 28, 1989, 19 Pa.B. 335; amended December 7, 2001, effective December 8, 2001, 31 Pa.B. 6663. Immediately preceding text appears at serial pages (267185) and (223107).

§ 42.32. [Reserved].

Source

The provisions of this § 42.32 adopted January 27, 1989, effective January 28, 1989, 19 Pa.B. 335; reserved December 7, 2001, effective December 8, 2001, 31 Pa.B. 6663. Immediately preceding text appears at serial pages (223107) to (223109).

§ 42.33. [Reserved].

Source

The provisions of this § 42.33 adopted January 27, 1989, effective January 28, 1989, 19 Pa.B. 335; reserved December 7, 2001, effective December 8, 2001, 31 Pa.B. 6663. Immediately preceding text appears at serial pages (223109) to (223110).

CHILD ABUSE REPORTING REQUIREMENTS**§ 42.41. Definitions relating to child abuse reporting requirements.**

The following words and terms, when used in this section and §§ 42.42—42.47 (relating to child abuse reporting requirements), have the following meanings, unless the context clearly indicates otherwise:

Child abuse—A term meaning any of the following:

- (i) A recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.
- (ii) An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age.
- (iii) A recent act, failure to act or series of acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.
- (iv) Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide the essentials of life, including adequate medical care, which endangers a child's life or development or impairs the child's functioning.

ChildLine—An organizational unit of the Department of Public Welfare which operates a 24-hour a day Statewide toll free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

Individual residing in the same home as the child—An individual who is 14 years of age or older and who resides in the same home as the child.

Perpetrator—A person who has committed child abuse and is a parent of the child, a person responsible for the welfare of a child, an individual residing in the same home as a child or a paramour of a child's parent.

Person responsible for the child's welfare—A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control. The term does not include a person who is employed by or provides services or programs in a public or private school, intermediate unit or area vocational-technical school.

Recent acts or omissions—Acts or omissions committed within 2 years of the date of the report to the Department of Public Welfare or county agency.

Serious mental injury—A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that does one or more of the following:

- (i) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened.

(ii) Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

Serious physical injury—An injury that causes a child severe pain or significantly impairs a child's physical functioning, either temporarily or permanently.

Sexual abuse or exploitation—The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another person to engage in sexually explicit conduct, or a simulation of sexually explicit conduct, for the purpose of producing a visual depiction, including photographing, videotaping, computer depicting or filming of sexually explicit conduct or the rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, statutory sexual assault or other form of sexual exploitation of children.

Authority

The provisions of this § 42.41 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 5 of the Occupational Therapists Practice Act (63 P. S. § 1505).

Source

The provisions of this § 42.41 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5425.

§ 42.42. Suspected child abuse—mandated reporting requirements.

(a) *General rule.* Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), licensees who, in the course of the employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made to the Department of Public Welfare when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse.

(b) *Staff members of public or private agencies, institutions and facilities.* Licensees who are staff members of a medical or other public or private institution, school, facility or agency, and who, in the course of their employment, occupation or practice of their profession, come into contact with children shall immediately notify the person in charge of the institution, school facility or agency or the designated agent of the person in charge when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse. Upon notification by the licensee, the person in charge or the designated agent shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with subsections (a), (c) and (d).

(c) *Reporting procedure.* Reports of suspected child abuse shall be made by telephone and by written report.

- (1) *Oral reports.* Oral reports of suspected child abuse shall be made immediately by telephone to ChildLine, (800) 932-0313.
- (2) *Written reports.* Written reports shall be made within 48 hours after the oral report is made by telephone. Written reports shall be made on forms available from a county children and youth social service agency.
- (d) *Written reports.* Written reports shall be made in the manner and on forms prescribed by the Department of Public Welfare. The following information shall be included in the written reports, if available:
 - (1) The names and addresses of the child and the parents or other person responsible for the care of the child, if known.
 - (2) Where the suspected abuse occurred.
 - (3) The age and sex of the subjects of the report.
 - (4) The nature and extent of the suspected child abuse including any evidence of prior abuse to the child or siblings of the child.
 - (5) The name and relationship of the persons responsible for causing the suspected abuse, if known, and any evidence of prior abuse by those persons.
 - (6) Family composition.
 - (7) The source of the report.
 - (8) The person making the report and where that person can be reached.
 - (9) The actions taken by the reporting source, including the taking of photographs and X-rays, removal or keeping of the child or notifying the medical examiner or coroner.
 - (10) Other information which the Department of Public Welfare may require by regulation.

Authority

The provisions of this § 42.42 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 5 of the Occupational Therapists Practice Act (63 P. S. § 1505); amended under sections 5(b) and 6(a)(2) of the Occupational Therapy Practice Act (63 P. S. §§ 1505(b) and 1506(a)(2)).

Source

The provisions of this § 42.42 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5425; amended December 7, 2001, effective December 8, 2001, 31 Pa.B. 6663. Immediately preceding text appears at serial pages (223111) to (223113).

Cross References

This section cited in 49 Pa. Code § 42.41 (relating to definitions relating to child abuse reporting requirements); 49 Pa. Code § 42.46 (relating to confidentiality—waived); and 49 Pa. Code § 42.47 (relating to noncompliance).

§ 42.43. Photographs, medical tests and X-rays of a child subject to report.

A licensee may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical test on the child. Medical summaries or reports of

the photographs, X-rays and relevant medical tests taken shall be sent to the county children and youth social service agency at the time the written report is sent or as soon thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request.

Authority

The provisions of this § 42.43 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 5 of the Occupational Therapists Practice Act (63 P. S. § 1505); amended under sections 5(b) and 6(a)(2) of the Occupational Therapy Practice Act (63 P. S. §§ 1505(b) and 1506(a)(2)).

Source

The provisions of this § 42.43 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5425; amended December 7, 2001, effective December 8, 2001, 31 Pa.B. 6663. Immediately preceding text appears at serial pages (223113) to (223114).

Cross References

This section cited in 49 Pa. Code § 42.41 (relating to definitions relating to child abuse reporting requirements); 49 Pa. Code § 42.46 (relating to confidentiality—waived); and 49 Pa. Code § 42.47 (relating to noncompliance).

§ 42.44. Suspected death as a result of child abuse—mandated reporting requirement.

A licensee who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the coroner of the county where death occurred or, in the case where the child is transported to another county for medical treatment, to the coroner of the county where the injuries were sustained.

Authority

The provisions of this § 42.44 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 5 of the Occupational Therapists Practice Act (63 P. S. § 1505); amended under sections 5(b) and 6(a)(2) of the Occupational Therapy Practice Act (63 P. S. §§ 1505(b) and 1506(a)(2)).

Source

The provisions of this § 42.44 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5425; amended December 7, 2001, effective December 8, 2001, 31 Pa.B. 6663. Immediately preceding text appears at serial pages (223113) to (223114).

Cross References

This section cited in 49 Pa. Code § 42.41 (relating to definitions relating to child abuse reporting requirements); 49 Pa. Code § 42.46 (relating to confidentiality—waived); and 49 Pa. Code § 42.47 (relating to noncompliance).

§ 42.45. Immunity from liability.

Under 23 Pa.C.S. § 6318 (relating to immunity from liability), a licensee who participates in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs shall have immunity from civil and criminal liability that might result by reason of the licensee's actions. For the purpose of any civil or criminal proceeding, the good faith of the licensee shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a licensee's actions in participating in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs.

Authority

The provisions of this § 42.45 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 5 of the Occupational Therapists Practice Act (63 P. S. § 1505); amended under sections 5(b) and 6(a)(2) of the Occupational Therapy Practice Act (63 P. S. §§ 1505(b) and 1506(a)(2)).

Source

The provisions of this § 42.45 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5425; amended December 7, 2001, effective December 8, 2001, 31 Pa.B. 6663. Immediately preceding text appears at serial page (223114).

Cross References

This section cited in 49 Pa. Code § 42.41 (relating to definitions relating to child abuse reporting requirements).

§ 42.46. Confidentiality—waived.

To protect children from abuse, the reporting requirements of §§ 42.42—42.44 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) take precedence over the provisions in § 42.24(1)(vi) (relating to code of ethics) and any other client confidentiality, ethical principle or professional standard that might otherwise apply.

Authority

The provisions of this § 42.46 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 5 of the Occupational Therapists Practice Act (63 P. S. § 1505).

Source

The provisions of this § 42.46 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5425.

Cross References

This section cited in 49 Pa. Code § 42.41 (relating to definitions relating to child abuse reporting requirements).

§ 42.47. Noncompliance.

(a) *Disciplinary action.* A licensee who willfully fails to comply with the reporting requirements in §§ 42.42—42.44 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) will be subject to disciplinary action under section 16 of the act (63 P. S. § 1516).

(b) *Criminal penalties.* Under 23 Pa.C.S. § 6319 (relating to penalties for failure to report), a licensee who is required to report a case of suspected child abuse who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.

Authority

The provisions of this § 42.47 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 5 of the Occupational Therapists Practice Act (63 P. S. § 1505); amended under sections 5(b) and 6(a)(2) of the Occupational Therapy Practice Act (63 P. S. §§ 1505(b) and 1506(a)(2)).

Source

The provisions of this § 42.47 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5425; amended December 7, 2001, effective December 8, 2001, 31 Pa.B. 6663. Immediately preceding text appears at serial page (223115).

Cross References

This section cited in 49 Pa. Code § 42.41 (relating to child abuse reporting requirements).

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