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Occupational Therapy Laws and Rules for Florida



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Photo: <http://floridasoccupationaltherapy.gov/>

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Learning Outcomes

After this course, participants will be able to:

- Learning Outcome 1: Recognize the role of the Florida Board of Occupational Therapy in the regulation of occupational therapy practice in Florida, including discipline for violations of rules governing practice
- Learning Outcome 2: Recognize the supervision requirements for occupational therapy personnel and the rules for the use of physical agent modalities under the practice act.
- Learning Outcome 3: List the continuing education requirements for license renewal and other recent additions and requirements to the relevant rules under the practice act

Purpose:

- To understand “why and how” the practice of occupational therapy is regulated in the State of Florida



Florida Occupational Therapy Laws and Rules

- As part of the twenty-six (26) hours of continuing education required herein for licensure renewal, each licensee shall attend a two (2) hour Board approved course on laws and rules, i.e., Fla. Stat ch. 456 and ch. 468, Part III, and Fla. Admin. Code ch. 64B11
- This course is Board approved and meets the requirement of completion of TWO hours education on OT Laws and Rules for licensure renewal in Florida



Civics Review

- The Florida legislature passes a law.
- The law authorizes an agency within the state to promulgate rules to operationalize the law.

Photo from: Office of the Secretary of State. (2017, January). The Florida Senate: Handbook for Kids. Retrieved from <http://www.flsenate.gov/senatekids/capitoltour11.cfm>



- The Florida legislature passed:
 - Fla. Stat ch. 456 Health Professions and Occupations: General Provisions and
 - Fla. Stat ch. 468 Part III §§ 468.201 – 468.225 Occupational Therapy Practice Act
 - Provides authority for the Florida Board of Occupational Therapy to adopt rules pursuant to the Administrative Procedure Act





Civics Review 2

- The Board of Occupational Therapy Practice promulgates rules to operationalize the Occupational Therapy Practice Act.
- The Board must announce proposed rules, solicit feedback, and follow other rules proscribed by the Administrative Procedure Act to make or change rules.
- The rules are published in the Florida Administrative Code
 - Fla. Admin. Code



What's New?

- A lot....and more to come
- Brief intro to new rules
 - Human Trafficking CE Requirement;
 - Telehealth;
 - Half hour contact hour CEU courses;
 - Interactive Q&A Session “live” at end of CE presentation;
 - Addition of Neurofeedback Device to 64B11-4.001 - Use of Prescription Devices;
 - Emotional support animals rule; and
 - Other changes to the Rule 64B11-4.003, F.A.C., Standards of Practice; Discipline are in process...



- If you look at the Board rules, (Fla. Admin. Code ch. 64B11), you will see that some things may have changed and some will be changing
 - If you see the word “repeal,” means it is been revoked or cancelled.
 - However, the substance of these rules may still be in effect, but going forward, the rules have changed to spell them out better and/or penalties may have have increased or decreased.
 - This is especially true for “Rule 64B11-4.003, F.A.C., Standards of Practice; Discipline,” from the occupational therapy licensure law, which is currently undergoing revision to comply with a Florida law that aims to have more consistency, between and among the multiple board that regulate the various health professions

Fla. Stat ch. 456 & 468

Florida's Department of Health (DOH)



The DOH is the umbrella agency for the various healthcare professions' licensure boards, including occupational therapy

DOH Mission is to promote and protect the health and safety of all Floridians

The occupational therapy licensure program is housed within the Division of Medical Quality Assurance (MQA)

The Miriam and Ira D. Wallach Division of Art, Prints and Photographs: Photography Collection, The New York Public Library. *A couple under the umbrella posing against a background of the beach.*

Retrieved from <http://digitalcollections.nypl.org/items/510d47e0-26b4-a3d9-e040-e00a18064a99>



What is the Purpose of Florida Occupational Therapy Licensure?

TO PROTECT THE PUBLIC
FROM HARM

This “harm” can be physical harm,
psychological harm, or economic harm.

continued



Florida Occupational Therapy Practice Act

- Also called the “Licensure Law”
- Regulates people who offer occupational therapy services
 - To safeguard the public health, safety, and welfare
 - Protect the public from being misled by incompetent, unscrupulous, and unauthorized persons
 - Assure high degree of professional conduct on the part of occupational therapists and occupational therapy assistants.
 - Assure the availability of occupational therapy services of high quality to persons in need of such services.
 - Fla. Stat § 468.201(2)

continued

Florida OT Practice Act 2020 Fla. Laws ch. 468 Part III

- Law (statute) that regulates the profession of occupational therapy in Florida
 - The statute was first voted into law by the Florida legislature in 1975 – 1st state to do so
 - Statute can only be changed by the Florida legislature
 - As the legislature only meets for a few months each year and has a great deal of business to attend to, it may take several years before the legislature acts on a proposal for change via law, if at all
 - However, lately the legislature has passed some laws that require the Board to create or revise some of its administrative rules

Rules: Fla. Admin. Code Chapter 64B11



- Rules interpret the law and/or describe procedures authorized by the Practice Act
 - (Fla. Stat. §468.204)
 - For example, the **Occupational Therapy Practice Act** authorizes the Board to require up to 30 contact hours of continuing education for re-licensure in Florida
 - The Occupational Therapy Continuing Education Rule specifically outlines the number of hours required and what types of educational activities will meet the requirements for re-licensure. The rule only requires 26 contact hours. Fla. Stat. § 468.204 .

Rules: Fla. Admin. Code Chapter 64B11.



- The Law (Practice Act or Statute) can only be changed by the Florida Legislature.
- However, the Florida Board of Occupational Therapy Practice can adopt, amend, or withdraw rules. Fla. Stat. § 468.204.
- They must follow a procedure to do so.





Telehealth

- Under Florida law, Ch. 2019 -137, occupational therapists can do telehealth, pursuant to Fla. Stat. §456.47.
- (a) “Telehealth” means the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. *The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.”*



- (2) PRACTICE STANDARDS. —
 - (a) A telehealth provider has the duty to practice in a manner consistent with his or her scope of practice and the prevailing professional standard of practice for a health care professional who provides in-person health care services to patients in this state.
 - (b) A telehealth provider may use telehealth to perform a patient evaluation. If a telehealth provider conducts a patient evaluation sufficient to diagnose and treat the patient, the telehealth provider is not required to research a patient's medical history or conduct a physical examination of the patient before using telehealth to provide health care services to the patient.
- (3) Must keep medical records
- (4) Out of state practitioners must register with the state, have malpractice insurance, not have pending disciplinary actions against them, cannot have an office in the state, must have a hyperlink to the department on their website, etc

continued



Health Professions and Occupations: General Provisions-Fla. Stat. ch. 456

Provides authorization for the Florida Occupational Therapy Practice Act. Some of the provisions in Fla. Stat. ch. 456, include:

- a) establishing license requirements,
- b) establishing mechanisms to oversee licensure programs and
- c) establishing some of the educational requirements for licensure and re-licensure and change them periodically Such as requiring Human Trafficking training..... And other changes....



Health Professions and Occupations: General Provisions-Fla. Stat. ch. 456

- For example, Fla. Stat. ch. 456 is the statute (law) that set the requirement for various Florida health professions' licensure boards to establish requirements for the number of CEUs you must have each renewal period, and some specific topic the boards must require.



- Each healthcare provider licensed by one of the named Boards (includes occupational therapy) must complete a one hour continuing education (CE) course on human trafficking that has been specifically approved by their Board for this purpose.
 - The course must be completed by January 1, 2021 and will count towards the required CE for renewal.
 - The law does not require that this course be taken again for future renewal cycles.
 - OccupationalTherapy.com has an approved course. You can find other courses through CE Broker <https://courses.cebroke.com/search>

See: <http://www.flhealthsource.gov/humantrafficking/>



- “Each healthcare provider licensed by one of the named Boards must
 - post a sign regarding human trafficking in a conspicuous place accessible to employees by January 1, 2021.
 - The sign must be at least 11 x 15 inches and in at least 32-point type.
 - The sign must contain statutorily required language and be posted in English and Spanish.
 - The Department has also provided Mandarin translations of these signs for use in offices where those languages are spoken.

See: <http://www.flhealthsource.gov/humantrafficking/>

continued Human Trafficking Signs



- You can find links to the official signs in on this website under the heading "SIGNS:
<http://www.flhealthsource.gov/humantrafficking>
The links to the signs appears below on the above referenced page. Each link contain a sign that meets the statutory requirements when printed at the listed size
 - [Human Trafficking \(English/Spanish\)](#)
 - [Human Trafficking \(English/Spanish/Mandarin\)](#)
 - [Human Trafficking \(English/Spanish/Creole\)](#)

See: <http://www.flhealthsource.gov/humantrafficking/>

continued Florida Board of Occupational Therapy Practice



FLORIDA Board of Occupational Therapy

Search Posts, Pages & FAQs:
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FAQs Contact Sitemap
Sunday, March 9th, 2014

Home Licensing Renewals Resources Meeting Information The Board

MEDICAL LAWS
Resources for Practice

Occupational Therapists and Occupational Therapy Assistants work in a variety of settings. It is important to know where, as a licensed practitioner, you may find the resources ...

Welcome to the State of Florida's Online Resource for
Occupational Therapists and Occupational Therapy Assistants
Licensing, Renewals and Information.

Apply **Renew** **Status** **Lookup** **Complaints**
Apply for a License Renew a License Check Application Status Verify a License File a Complaint

<http://floridasoccupationaltherapy.gov/>



Board of Occupational Therapy

- Power to grant/deny licenses
- Power to discipline licensees
- Power to adopt rules (outline procedures or further define the practice act according to the Administrative Procedure Act)
- Power to approve continuing education providers
- Power to set fees

continued Board of Occupational Therapy



- Comprised of
 - Four occupational therapists in good standing, licensed, state resident (one vacant as of 11/2020)
 - One occupational therapy assistant in good standing, licensed, state resident (vacant as of 11/2020)
 - Two consumer members, state residents, not connected with OT practice (one vacant – the chair is a consumer member)
- All are appointed by the governor and subject to approval by the State Senate (Fla. Sta. § 468.205)
- The Board meets quarterly in Tallahassee. (During the pandemic they've met by phone. They are planning an in person meeting in Tallahassee for the February meeting at the hotel where they stay so they can socially distance.)
- Agenda are posted in advance at: <http://floridasoccupationaltherapy.gov/meeting-information/>

continued Current Board Members



James F. Spafford MBA
Chair
Loxahatchee
Term ends 10/31/2018

Tameka German, OTR/L
Tallahassee
Term ends 10/31/2020



Caylee J. Banta, OTD, OTR
OTD, OTR Vice-Chair
Rockledge, FL
Term ends 8/31/2019

OTA: Vacant
OTR: Vacant

Consumer Member #2: Vacant



Elena Vizvary , OTR/L
Sarasota
Term Ends: 10/31/21

<http://floridasoccupationaltherapy.gov/the-board/>



Current Board Members?

- “Members of the board can serve two four-year terms. **Despite the expiration of a term, board members can continue to serve until they have been either replaced or reappointed.**”
- “The occupational therapists & occupational therapy assistant are required to be
 - licensed in good standing in Florida &
 - **engaged in the practice of the profession for at**
 - **least 4 years immediately prior to appointment.**
- All board members must be Florida residents.”

<https://floridasoccupationaltherapy.gov/the-board/>

continued Staff and Responsibilities



- Allen Hall – Board Executive Director – Handles administration of the Medical therapies/Psychology office and legislative and budget issues.
- Anna Hart-King – Program Operations Administrator – Supervisor of OT staff. Answers specific questions regarding laws & rules, reactivations & licensure renewals, & is available when other staff members are out.
- Deborah Boutwell – Regulatory Specialist II – Handles OT/OTA applications. Exemption from Disqualification applications, license renewals, Assists with concerns regarding licensure, reactivations, renewals, continuing education requirements, laws and rules questions, and public feedback. CE provider applications, agenda preparation, and board minutes. Contact person for Board

continued Staff and Responsibilities



Giselle Horton –Regulatory Specialist II - Handles initial licensure application reviews and determines eligibility for OT/OTA licensure applications, Exemption from Disqualification applications and license renewals. Assists with general to specific concerns regarding licensure, reactivations, renewals, continuing education requirements, laws and rules questions, and public feedback response.

Ronald “Tom” Jones, Board Counsel– Legal Counsel – Assistant Attorney General. (New)

Board of Occupational Therapy Practice Meeting Minutes, (2020, Nov.).
<https://floridasoccupationaltherapy.gov/meetings/minutes/2020/11-november/11092020-minutes.pdf> /

Florida Sunshine Law



All Board Meetings are held in the “Sunshine” as meetings are open to the public and recorded for the public record. During the pandemic, meetings have been by phone with connection info on the Board’s website

You can listen to recordings of meetings on the Board website after the meetings

<http://www.myflsunshine.com/>



Occupational Therapy Organizations

- National Board for Certification of Occupational Therapy (www.nbcot.org)
- American Occupational Therapy Association (www.aota.org)
- Florida Occupational Therapy Association (www.flota.org)
- While these organizations influence OT practice, none has authority over FL OT Board



American Occupational Therapy Association

- Voluntary membership organization
- Has a Standards and Ethics Committee which can discipline AOTA members if needed
- Often publishes standards, guidelines, and position papers which may or may not be adopted by FL OT Board, but may be considered by the board, when evaluating professional behavior and ethical issues of licensees

AOTA Commission on Standards and Ethics. *AOTA Code of Ethics 5th edition*. To be published in *American Journal of Occupational Therapy*, 74(Suppl. 3). Available for download from <https://www.aota.org/-/media/Corporate/Files/Practice/Ethics/AOTA-2020-Code-of-Ethics.pdf>



Florida Occupational Therapy Association

- Is a voluntary membership organization
- Promotes the profession of occupational therapy in Florida
- Disseminates information about FL licensure
- FOTA often sends a representative to Board meetings to present the views of Florida's occupational therapy practitioners
- Negotiates wording of laws and regulations that affect OT with other professions, and advocates for occupational therapy in numerous ways.

Occupational Therapy in Florida



Defined: The use of purposeful activity or interventions to achieve functional outcomes. Services include:

- 1. Assessment, treatment, and education of or consultation with the individual, family or other persons.**
- 2. Interventions directed toward developing daily living skills, work readiness or work performance, play skills or leisure capacities, or enhancing educational performance skills.**
- 3. Providing for the development of: sensory- motor, perceptual, or neuromuscular functioning; range of motion; or emotional, motivational, cognitive, or psychosocial components of performance. Fla. Stat. § 468.203(4)(b)**

Under consideration for revisions as of December 2020: See FOTA Email

continued OT Scope of Practice in Florida

Q5



- Design, develop, adapt, or train in the use of assistive technology devices
- Design, fabrication, or application of rehabilitation technology
- Orthotic and prosthetic devices
- PAMs as an adjunct to, or in preparation for purposeful activity
- Use of ergonomic principles
- Adaptation of environments and processes
- Promotion of health and wellness

Fla. Stat. § 468.203(4)(b)(3)

Under consideration for revisions as of December 2020



Model Practice Act Definition

- "The Practice of Occupational Therapy" means the therapeutic use of everyday life activities (occupations) with individuals or groups for the purpose of participation in roles and situations in home, school, workplace, community, and other settings. Occupational therapy services are provided for the purpose of promoting health and wellness and to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Occupational therapy addresses the physical, cognitive, psychosocial, sensory, and other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect health, well-being, and quality of life.



OT Services Are Provided By

- Licensed Occupational Therapists
- Licensed Occupational Therapy Assistants (COTAs)
- NOTE: OT Aides – only assist in the practice of occupational therapy under direct supervision.



Exemptions

- OT Students on Fieldwork - if such activities and service constitute part of a supervised course of study from an accredited educational program
- Persons employed by the US Government
- Physicians, PAs, nurses, PTs, psychologists, speech-language pathologists, audiologists who use OT part or incidental to their practice – Fla. Stat. § 468.225

How does one get a License?



By Prk11 (Own work) [Public domain], via Wikimedia Commons

continued Licensure By Examination



- For an applicant who is waiting to take the NBCOT examination.
- Follow the procedures on the Boards website as follows: (for new grads)
 1. BEFORE you submit this state licensure application, apply to the National Board for Certification in Occupational Therapy (NBCOT) to schedule the examination required for licensure. Visit: www.nbcot.org or call: (301) 990-7979.
 2. AFTER you have passed the examination, you are READY to apply for your State of Florida license. Apply online at <https://floridasoccupationaltherapy.gov> for a streamlined process or submit the paper application. *After successfully completing the exam*, you may select the “ENDORSEMENT” application method.
 3. Once we determine that your application is COMPLETE and we are able to verify your passage of the examination, your license will be issued.



For Exam Applicants Only

- BEFORE submitting an application:
 - Apply to sit for the NBCOT exam. Be sure to request and pay for NBCOT to send your scores to Florida at the same time you are registering for the examination.
 - Note: You are NOT required to provide proof of graduation.
 - Note: You are NOT required to provide an NBCOT exam eligibility letter.
 - Submit proof of your Scheduled Exam Date as received directly from the Testing Center if you plan to apply for a temporary license

For Exam Applicants Only

- Proof of Scheduled Exam Date –
 - You will receive a NBCOT Exam Eligibility letter verifying your eligibility to sit the exam with instructions to contact and schedule your exam date with a Testing Center.
 - After you contact the Testing Center and receive your “Confirmation of Appointment” letter/email to sit the exam, you may forward this letter/email to the Board office at: info@floridasoccupationaltherapy.gov.
 - The Board Staff must receive the “Confirmation of Appointment” number on this letter/email to verify your exam date online before completing your application file and issuing a temporary permit, if requested.



Licensure By Endorsement

- LBE is for applicants who successfully completed the exam and hold CURRENT certification with NBCOT. Licensure in another state is not required.
- Applicants must complete an approved 2-hour prevention of medical errors course and retain the certificate of completion.
- Applicants must apply online and include their NCBOT certification number on their application



Licensure By Endorsement

- Board staff will attempt to verify applicants' NBCOT certification online. If verification is unavailable, applicants will have to request a certification letter sent directly from NBCOT to the Florida Board
- Additionally, if licensed in other states, the applicant must obtain verification of license status from the other state boards.

continued Licensure By Exam & Waiver



- For applicants who initially passed the NBCOT examination but have not kept their NBCOT certification current.
- These applicants are waiving current NBCOT certification required to apply by *endorsement*.
- Applicants must present proof of current licensure as an occupational therapist in another state, the District of Columbia, or any territory or jurisdiction of the United States or foreign national jurisdiction which requires standards for licensure determined by the board to be equivalent to the requirements for licensure in Florida.



Licensure By Exam & Waiver

- Applicants must provide a correct NBCOT certification number, license(s) and state(s) on their application and board staff will attempt to verify their certifications and licenses online.
- If verification is unavailable, they will have to request certification or verification letters be sent directly from NBCOT or the licensure state(s) to the Florida Board.



Licensing Process

- Can apply online at: floridasoccupationaltherapy.gov or download application.
- One application for all who apply OT, OTA, etc.
- Must pay \$180 in fees before processing – if paper application >> cashiers check or money order
- Must be scheduled to take the NBCOT exam and submit date of exam to OT Board
- Additional information may be requested by the Board or Board Staff
- May not work until issued a temporary permit or permanent license
- Applications are good for 1 year from date of submission



Licensing Process

- Required to take an approved 1 hour course on HIV/AIDS before FIRST license RENEWAL
- Required to take an approved 2 hour course in Prevention of Medical Errors before FIRST license RENEWAL



Licensing Process 4 Re-entry

- Applicant seeking re-entry into the profession:
 - Rule 64B11-3.010, F.A.C.: any applicant seeking licensure, who has not been in active practice within the last five years, must submit documentation of 50 continuing education hours, relevant to the practice of occupational therapy.
 - Twelve (12) of these 50 hours may be completed as home study. These hours must be completed within the year prior to licensure and verification must be submitted before a license can be issued.
 - Though it is not required, the Board strongly advises these applicants to take a Florida Board approved Laws and Rules course as a part of the 50 re-entry continuing education hours.

<https://floridasoccupationaltherapy.gov/help-center/must-i-complete-additional-continuing-education-if-i-have-been-out-of-practice-over-5-years-when-applying-for-a-license>



Background Screening

- HB 7069 (2010) was signed into law on May 26, 2010, and contains expanded requirements for background screening for health care practitioners who work in certain facilities, including those regulated by the Agency for Health Care Administration (AHCA)
 - Medicaid & licensure and regulation of Florida's health facilities
- Occupational Therapists and Occupational Therapist Assistants who are employed in or seeking employment in facilities regulated by AHCA may obtain more information about these requirements by visiting AHCA's Background Screening web page
 - http://ahca.myflorida.com/MCHQ/Central_Services/Background_Screening/



Mandatory License Denial

- Fla Stat. § 456.0635, provides that health care boards or the department shall refuse to issue a license, certificate or registration and shall refuse to admit a candidate for examination in certain circumstances.

continued Fla Stat. § 456.0635(a)



- These circumstances include conviction of, or pleading guilty or nolo contendere regardless of adjudication:
 - A Felony under
 - Chapter 409, F.S., (relating to social and economic assistance [child support]),
 - Chapter 817, F.S., (relating to fraudulent practices [such as credit card fraud]),
 - Chapter 893, F.S., (relating to drug abuse prevention and control)
 - or a similar felony offense committed in another state or jurisdiction,
 - unless the candidate or applicant has successfully completed a pretrial diversion or drug court program for that felony and provides proof that the plea has been withdrawn or the charges have been dismissed.

continued Fla Stat. §456.0635 (b)



- If they haven't completed a pretrial diversion or drug court program for that felony and provides proof that the plea has been withdrawn or the charges have been dismissed, "any such conviction or plea shall exclude the applicant or candidate from licensure, examination, certification, or registration *unless* the sentence and any subsequent period of probation for such conviction or plea ended:
 - 1. For felonies of the first or second degree, more than 15 years before the date of application.
 - 2. For felonies of the third degree, more than 10 years before the date of application, except for felonies of the third degree under s. [893.13\(6\)\(a\)](#).
 - 3. For felonies of the third degree under s. [893.13\(6\)\(a\)](#), more than 5 years before the date of application;"
 - (S.893.13(6)(a) is possession of a controlled substance)



Fla Stat. § 456.0635

- (b) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under 21 U.S.C. ss. 801-970, (related to controlled substances) or 42 U.S.C. ss. 1395-1396, (related to public health, welfare, Medicare and Medicaid issues) unless the sentence and any subsequent period of probation for such conviction or plea ended more than 15 years before the date of the application;
- (c) Has been terminated for cause from the Florida Medicaid program pursuant to s. [409.913](#), unless the candidate or applicant has been in good standing with the Florida Medicaid program for the most recent 5 years; or



Fla Stat. § 456.0635

- (d) Has been terminated for cause, pursuant to the appeals procedures established by the state, from any other state Medicaid program, unless the candidate or applicant has been in good standing with a state Medicaid program for the most recent 5 years and the termination occurred at least 20 years before the date of the application;
- (e) Is currently listed on the United States Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities, NEW *except when such applicant is listed solely based on a default or delinquency on a student loan as provided in s. [120.82](#).*



Temporary Permits

- The language of the Occupational Therapy Practice Act – the licensure law/statute– as opposed to a regulation or Board rule, covers temporary permits.
- Temporary permits allow applicants – both OT, and OTAs - work under the supervision of a licensed occupational therapist while waiting to take the exam and receive successful scores for full licensure.

<https://floridasoccupationaltherapy.gov/help-center/search/temporary+permit/page/2/>



Temporary Permits

- Temporary permits cannot be extended or renewed.
- Applicants for temporary permits who previously failed the NBCOT exam are ineligible for another temporary permit.
- The Board may choose to not issue a temporary permit for applicants it deems ineligible.

<https://floridasoccupationaltherapy.gov/help-center/search/temporary+permit/page/2/>



Temporary Permits

- Temporary permit holders who receive notification of failing the exam cannot continue to practice occupational therapy under their temporary permit.
- The permit will be revoked upon notification to the Board of the failing exam results.
- Temporary permits are revoked if applicants fail to have NBCOT send their successful scores to the Board office within 12 months from the date of the approval of the Board.

<https://floridasoccupationaltherapy.gov/help-center/search/temporary+permit/page/2/>

<http://floridasoccupationaltherapy.gov/licensing/occupational-therapist/>

<http://floridasoccupationaltherapy.gov/licensing/occupational-therapy-assistant/>

Temporary Permits



- Applicants who apply by examination, and request temporary permits must provide proof of a scheduled NBCOT exam date, which contains their Confirmation of Appointment number from the testing center.
- Applicants must contact NBCOT to apply for the examination prior to requesting a permit.
- A temporary permit will not be issued until official exam date confirmation is provided to the Florida Board office by email or fax and verified with the examination vendor.

<http://floridasoccupationaltherapy.gov/licensing/occupational-therapist/>
<http://floridasoccupationaltherapy.gov/licensing/occupational-therapy-assistant/>



Supervision Defined

... means responsible supervision and control, with the licensed occupational therapist providing both initial direction in developing a plan of treatment and periodic inspection of the actual implementation of the plan. Such plan of treatment shall not be altered by the supervised individual without prior consultation with and the approval of, the supervising occupational therapist.

Fla. Stat. § 468.203(8)



Supervision Defined

- The supervising therapist need not always be physically present or on the premises when *the assistant* is performing services; however, except in cases of emergency, supervision shall require the availability of the supervising occupational therapist for consultation with and direction of the supervised individual. - Fla. Stat. § 468.203(8)



- “(j) “Supervision of an occupational therapy assistant” means that the responsible occupational therapist shall at all times be responsible for all occupational therapy services provided to the client. The occupational therapist who is responsible for appropriate supervision shall formulate and document in each client’s record, with his or her signature, the goals and plan for that client, and shall make sure that the occupational therapy assistant assigned to that client functions under appropriate supervision. *As part of the responsible occupational therapist’s appropriate supervision, he or she shall conduct at least weekly review and inspection of all aspects of occupational therapy services by the occupational therapy assistant.*”
- CALIFORNIA OCCUPATIONAL THERAPY PRACTICE ACT Chapter 5.6 § 2570.3 (j)(1-2) (2010)

continued Contrast with California



- (1) The supervising occupational therapist has the continuing responsibility to follow the progress of each patient, provide direct care to the patient, and to assure that the occupational therapy assistant does not function autonomously.
- (2) An occupational therapist shall not supervise more occupational therapy assistants, at any one time, than can be appropriately supervised in the opinion of the board. Two occupational therapy assistants shall be the maximum number of occupational therapy assistants supervised by an occupational therapist at any one time, but the board may permit the supervision of a greater number by an occupational therapist if, in the opinion of the board, there would be adequate supervision and the public's health and safety would be served. In no case shall the total number of occupational therapy assistants exceed twice the number of occupational therapists regularly employed by a facility at any one time.
- CALIFORNIA OCCUPATIONAL THERAPY PRACTICE ACT Chapter 5.6 § 2570.3 (j)(1-2) (2010)



Supervision in Fieldwork

- “Supervision, for purposes of this rule, shall mean that the occupational therapist student or occupational therapy assistant student has daily direct contact at the worksite with his or her supervisor.” Fla. Admin. Code r. 64B11-2.011 (2017)



Occupational Therapy Aide

- ... a person who assists in the practice of occupational therapy, who works under the direct supervision of an occupational therapist or occupational therapy assistant, and whose activities require a general understanding of occupational therapy pursuant to board rules

Fla. Stat. § 468.201(5)



Pursuant to Board Rules ...

- whose activities require an understanding of occupational therapy but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy - Fla. Admin. Code. r. 64B11-4.002(1)



Pursuant to Board Rules ...

- An occupational therapy aide is a worker who is trained on the job to provide supportive services to occupational therapists and occupational therapy assistants. The term occupational therapy aide as used in this section means any unlicensed personnel involved in the practice of occupational therapy - Fla. Admin. Code. r. 64B11-4.002(1)



What can OT Aides do?

- ...Only specific tasks which are *neither evaluative, assessive, task selective nor recommending in nature*; and only after insuring that the aide has been appropriately trained for the performance of the task.
- All delegated patient related tasks must be carried out under direct supervision, which means that the aide must be within the line of vision of the supervising OT or COTA.
 - Fla. Admin. Code. r. 64B11-4.002(2)



Who is responsible?

- The licensed occupational therapist or occupational therapy assistant is totally and wholly responsible for the acts or actions performed by any occupational therapy aide functioning in the occupational therapy setting

Fla. Admin. Code. r. 64B11-4.002(3)



OT Aides May Perform...

Ministerial duties, tasks and functions without direct supervision which shall include, but not be limited to:

- clerical or secretarial activities

- transportation of patients/clients

- preparing, maintaining, or setting up of treatment equipment and work area

- taking care of patients'/clients' personal needs during treatment - Fla. Admin. Code. r. 64B11-4.002 (4)



OT Aides May Perform...

- Tasks that **are neither** evaluative, assessive, task selective or recommending in nature which shall include, but not be limited to:
 - interpret referrals or prescriptions
 - perform evaluative procedures
 - develop, plan, adjust, or modify treatment procedures



OT Aides May Not

- act for OT using judgment or decision making for direct patient care
- patient treatment
- any activities in which an occupational therapy aide has not demonstrated competence in performing - Fla. Admin. Code. r. 64B11-4.002(5)



I Did Not Know....

- “Many Occupational Therapists facing discipline by the Board of Occupational Therapy claim they did not know.
- Not knowing does not alleviate accountability. Become familiar with the *Grounds for Discipline* found in Section 456.072(1), Florida Statutes (F.S.), and possible *Disciplinary Actions* found in the Occupational Therapy Practice Act – Section 468.217, F.S.”

<http://floridasoccupationaltherapy.gov/latest-news/many-occupational-therapists-facing-discipline-claim-they-did-not-know/>

continued Grounds for Denial/Discipline



The following constitute Grounds for Denial of a License or Disciplinary Action:

- a. Attempting to obtain a license by bribery, fraud, or through error
- b. Action taken by licensee in another jurisdiction (ie revocation)
- c. Conviction/found guilty/plea of nolo contendere of any crime anywhere which directly relates to the practice of occupational therapy or ability to practice
- d. False, deceptive, or misleading advertising.
- e. Advertising, practicing, or attempting to practice under a name other than one's own name.
- f. Failing to report to the department any person who the licensee knows is in violation of this part or of the rules of the department or of the board. ***



Grounds for Denial/Discipline

- ****Exception:
 - “However, a person who the licensee knows is unable to practice occupational therapy with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of a mental or physical condition, may be reported to a consultant operating an impaired practitioner program as described in s. 456.076 rather than to the department.”

continued Grounds for Denial/Discipline



- g. Aiding, assisting, procuring, advising in unlicensed practice
- h. Failing to perform any statutory or legal obligation placed upon a licensed occupational therapist or occupational therapy assistant.
- i. Making/Filing a false report, or failing to file report required by state or federal law, or willfully impeding or obstructing such filing or inducing another person to do so, if the re-ports are signed in one's capacity as a licensed OT/OTA
- j. Paying or receiving any commission, bonus, kickback, or rebate to or from, or engaging in any split-fee arrangement in any form whatsoever for referrals from doctors, labs, agencies, etc. Professional consultation fees are allowed.
- k. Exercising influence within a patient-therapist relationship for purposes of engaging a patient in sexual activity. (The law assumes patients are incapable of giving informed consent to their OT/OTR for sexual activity).

continued Grounds for Denial/Discipline



- l. Making deceptive, untrue, or fraudulent representations in the practice of occupational therapy or employing a trick or scheme in the practice of occupational therapy that does not conform to prevailing standards of treatment in the occupational therapy community.
- m. Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct (“Solicitation” any communication that requests and immediate response)
- n. Failure to keep written records to justify treatment, including patient histories, examination results, test results, etc.
- o. Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which includes, but is not limited to, the promoting or selling of services, goods, appliances, or drugs.

continued Grounds for Denial/Discipline



- p. Performing professional services which have not been duly authorized by the patient or client, or his or her legal representative. (Exception Fla Stat §768.13 – the Good Samaritan Act)
- q. Gross or repeated malpractice, which similar OT/OTA would recognize as unacceptable under similar conditions of circumstances
- r. Performing procedures considered experimental on human subjects by prevailing standards without obtaining informed consent
- s. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

continued Grounds for Denial/Discipline



- t. Inability to practice with skill and safety by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition
 - To enforce this, the department, upon probable cause, has the authority to compel an occupational therapist or occupational therapy assistant to submit to a mental or physical examination by physicians designated by the department. The failure to do so constitutes an admission of the allegations against him or her and default and final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond his or her control.
- u. Delegating professional responsibilities to a person when the licensee who is delegating to them knows or has reason to know the person is not qualified by training, experience, or licensure to perform them.

continued Grounds for Denial/Discipline



- v. Violating a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.
- w. Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.
- x. Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

continued Grounds for Denial/Discipline



- Additional violations from Fla. Stat. § 456.072 (1):
 - Violating any Board rule
 - Failing to comply with CEU requirements
 - Failing to report to the board within 30 days after the licensee has been convicted or found guilty of, or entered a plea of no contendere to, regardless of adjudication, a crime in any jurisdiction.
 - Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.
 - Failing to finish PRN treatment program or failing without just cause to comply with PRN contract.

continued Grounds for Denial/Discipline



- Additional violations from Fla. Stat. § 456.072 (1):
 - Conviction of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under federal embezzlement, theft, fraud, etc. laws & regulations relating to the Medicaid program.
 - Failure to remit Medicaid overpayments to the state.
 - Termination from the state Medicaid Program pursuant to Fla. Stat. §409.913, any other state Medicaid program, or the federal Medicare program, unless eligibility to participate in the program from which the practitioner was terminated has been restored.

continued Grounds for Denial/Discipline



- Additional violations from Fla. Stat. § 456.072 (1):
 - Conviction of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, a crime in any jurisdiction which related to health care fraud.***
 - Testing positive for any drug on confirmed preemployment or employer ordered drug screening without lawful prescription.

continued Range of Disciplinary Actions



- The law gives the Florida Board of Occupational Therapy the authority to make rules to enforce the laws to address violations of the law.
- In other words, the Licensure Board's rule, enforce the laws that apply to occupational therapy practice and the standards and behaviors expected of OTs/OTAs
- Vary depending on the circumstances of the case.
- The range of disciplinary actions for violations of specific sections of the law or rules is addressed in Fla. Admin. Code. r. 64B11- 4.003 which is currently undergoing revision by the Florida Board of Occupational Therapy.
 - Range of discipline may be based on number of offenses – first, second, ~~third~~

Violations/Discipline



	MINIMUM	MAXIMUM
(a) Attempting to obtain, obtaining, or renewing a license to practice a profession or certificate by bribery, fraudulent misrepresentation, or through an error of the Department or the Board. (Sections 468.217(1)(a), & 456.072(1)(h), F.S.)		
First Offense	Revocation with ability to reapply 6 months probation with conditions or certify application with restrictions and \$1,000 fine.	Permanent revocation with ability to reapply and \$3,000 fine. <u>1-year suspension and \$5,000 fine.</u>
Second <u>and Subsequent</u> Offenses	Revocation <u>Restriction of practice or license or denial of licensure with ability to reapply</u> and \$3,000 <u>\$5,000</u> fine.	<u>Permanent Revocation or denial of licensure</u> with no ability to reapply and \$10,000 fine.
Third Offense	Revocation with ability to reapply and \$6,000 fine.	Revocation with no ability to reapply and \$10,000 fine.

However, if the violation is not through an error but is for making a false or fraudulent representation or bribery, the fine is increased to \$10,000 per count or offense.

Violations/Discipline



	Minimum	Maximum
(b) Action taken against license by another jurisdiction. (Sections 468.217(1)(b), and 456.072(1)(f), F.S.)		
First Offense	Letter of concern and \$100 <u>\$500</u> fine.	Permanent Revocation. <u>Imposition of discipline which would have been if the substantive violation occurred in Florida</u>
Second and Subsequent Offenses	1-year suspension <u>Imposition of discipline which would have been if the substantive violation occurred in Florida</u> and \$1,000 <u>\$2,500</u> fine.	<u>Permanent</u> revocation <u>\$10,000 fine.</u>
Third Offense	Revocation and \$10,000 fine.	

Violations/Discipline



	Minimum	Maximum
(c) Guilt of a crime directly relating to practice or ability to practice. (Section 468.217(1)(c), F.S.)		
First Offense	6 months probation with conditions and \$1,000 fine.	Permanent revocation and \$5,000 fine.
<u>Misdemeanor</u>	<u>Reprimand and \$250 fine</u>	<u>1-year probation conditions and with \$500 fine.</u>
<u>Felony</u>	<u>1-year probation with conditions & \$1,000 fine.</u>	<u>1-year suspension and \$2,500 fine.</u>
<u>Felony crimes having a factual basis related to assault, battery, abuse, or which otherwise caused bodily harm.</u>	<u>1-year suspension and \$5,000 fine.</u>	<u>Permanent revocation and \$10,000 fine.</u>
<u>Crimes involving fraudulent misrepresentation.</u>	<u>1-year suspension and \$5,000 fine.</u>	<u>Permanent revocation and \$10,000 fine.</u>

Violations/Discipline



	Minimum	Maximum
(c) Guilt of a crime directly relating to practice or ability to practice. (Section 468.217(1)(c), F.S.)		
SECOND & Subsequent Offenses	1-year suspension & \$5,000 fine.	<u>Permanent revocation and \$10,000 fine.</u>
<u>Misdemeanor</u>	<u>1-year probation with conditions and \$500 fine.</u>	<u>1-year suspension and \$1,000 fine.</u>
<u>Felony</u>	<u>1-year suspension and 2,500 fine.</u>	<u>Permanent revocation and \$5,000 fine.</u>
<u>Felony crimes having a factual basis related to assault, battery, abuse, or which otherwise caused bodily harm.</u>	<u>2-year suspension and \$10,000 fine.</u>	<u>Permanent revocation and \$10,000 fine.</u>
<u>Crimes involving fraudulent misrepresentation.</u>	<u>2-year suspension and \$10,000 fine.</u>	<u>Permanent revocation and \$10,000 fine.</u>

Violations/Discipline



Minimum

Maximum

(d) False, deceptive, or misleading advertising.
(Section 468.217(1)(d), F.S.)

First Offense

~~Reprimand~~ Letter of concern and \$100 fine.

~~6 months suspension~~ probation with conditions and \$250 fine.

Second and Subsequent Offenses

6 months suspension and ~~\$250~~ \$500 fine.

9 months suspension Restriction of practice or license and ~~\$500~~ \$5,000 fine.

~~Third Offense~~

~~9 months suspension and \$500 fine.~~

~~1 year suspension and \$5,000 fine.~~

continued Bottom Line



- “Reprimands” on minor first offenses were changed to “Letters of Concern”
- “Third Offenses” were eliminated as offenses and the consequence, merged into the “second and *Subsequent Offences*” category, except for the violating rules related to the Medicaid program.
- First and Subsequent Offenses with a conviction or pleading guilty of nolo contendere to any misdemeanor or felony in this category and some other rules categories related to fraud can lead to “Permanent revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.



Another Change....

- Licensure applications: the form changed because of a change in Florida law

continued Range of Disciplinary Actions



- Aiding Unlicensed Practice -
 - One year probation with conditions and \$1000 fine to permanent revocation and \$10,000 fine
- Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice a licensee's profession.
 - First offense: 6 months probation with conditions and \$1,000 fine to permanent revocation and \$5,000 fine.
 - Second offense: Restriction of practice or license and \$5,000 fine to Permanent revocation and a \$10,000 fine (or in the case of application for licensure, denial of license.)
- Fla. Admin. Code. r. 64B11 – 4.003

(Sections 468.217(1)(g), and 456.072(1)(j), F.S.) (Section 456.072(1)(c), F.S.)



Board Discipline

- If the Board accuses you of something, get an attorney who knows something about occupational therapy, and representing people before licensure boards, and is willing to read the Board's rules.



If you have to appear before the Board,
bring an attorney with you

- Fla. Admin. Code. r. 64B11-4.003(3) allows you to present specified mitigating factors to allow the Board to deviate from the penalties it normally recommends. A good attorney can help you present your case with mitigating factors in a light most favorable to you to help lessen the potential recommended Board penalties





Music Division, The New York Public Library. (1900). *In the house of too much trouble*
Retrieved from <https://digitalcollections.nypl.org/items/510d47e0-c05e-a3d9-e040-e00a18064a99>

Range of Discipline

Notice of Noncompliance

Letter of Concern

Citation

Reprimand

Probation

Suspension

Licensure with Conditions

Denial of Licensure

Revocation



Photo from <https://blogs.loc.gov/law/2013/03/frequent-reference-question-how-many-federal-laws-are-there/>

continued Notice of Noncompliance



- May be issued for a minor offense, a first offense or violation that does not endanger the health, safety, or welfare of the public. An example is failure to notify the board of a change of address or overcharging for medical records.
- Fla. Admin. Code. r. 64B11-4.007 requires licensees to maintain a current mailing address and address of current of practice (if not the same as mailing address) and to notify the board of change of address within 60 days of a change.
- You must change your address with the Board online or by mail within 15 days



Letters of Concern

- Letter of concern and a minimum administrative fine of \$100, remedial education, and/or refund of fees billed.
- * May be issued if no potential harm involved i.e. Failure to comply with HIV CE requirement
- In the proposed, updated, rule changes, most of the “reprimands” were changed to “letters of concern” with fines for many “first offenses.”



- The Board may issue a citation, which includes a fine, for such violations as failure to renew license on a timely basis; failure to complete continuing education requirements.**
- **First time failure to complete required continuing education hours, which includes but is not limited to required HIV/AIDS, during the biennial licensure period. The fine shall be \$50.00 per hour for each hour of deficiency, up to a maximum fine of \$1,000.00. In addition, licensees shall make up the deficient continuing education and take one additional hour of continuing education for each of the continuing education deficiencies, which shall not count towards meeting the continuing education renewal requirements for the next biennium. All such made up continuing education hours and additional continuing education hours shall be completed and documentation of same shall be provided to the department within 90 days of the date the citation is filed.



Reprimand

- The Board may issue a reprimand, which may includes a fine, for such violations as
 - failure to report another licensee in violation of the practice act;
 - failure to keep medical records;
 - false, misleading or deceptive advertising.
- However under the new proposed rules, currently under review, many of the letters of reprimand penalties were changed to a letter of concern plus a fine, but not all of them

See board minutes from November 2020



Probation

- With conditions, which may include
 - Restrictions on the type of practice setting the licensee may work in;
 - Required supervision on the licensee with periodic reports to the Board;
 - Require participation in Professional Resource Network (PRN), a network for counseling and monitoring of licensees with substance abuse problems and/or mental health issues.



Suspension

- Until the licensee appears before the Board to demonstrate current competency and ability to practice safely and compliance with any previous Board orders.
- The Board will usually decide the appropriate period of time (a minimum of ninety days) to suspend someone's license and require the licensee to appear before the board before the license is reinstated.



- Licensure with Conditions
- Denial of License



Permanent Revocation

- License is permanently taken away for such violations as inability to practice with skill and safety; delegating professional responsibility to unqualified person.

continued

Aggravating & Mitigating Circumstances



- Based upon consideration of aggravating and mitigating factors present in an individual case, the Board may deviate from the penalties recommended below. The Board shall consider as aggravating or mitigating factors the following:
 - Exposure of patients or public to injury or potential injury, physical or otherwise; none, slight, severe, or death;
 - Legal status at the time of the offense; no restraints, or legal constraints;
 - The number of counts or separate offenses established;
 - The disciplinary history of the applicant or licensee in any jurisdiction and the length of practice;
 - Pecuniary benefit or self-gain inuring to the applicant or licensee;
 - Any efforts at rehabilitation, attempts by the licensee to correct or to stop violations, or refusal by the licensee to correct or to stop violations;



Disciplinary Actions

- Disciplinary actions taken are listed on the MQA website
 - <https://appsmqa.doh.state.fl.us/MQASearchServices/EnforcementActionsPractitioner>



Discipline & Administrative Actions

Complete one or more search fields.

(Use fewer fields to produce more results)[Help](#)

Board/Council

BOARD OF OCCUPATIONAL THERAPY PRACTICE

Profession

--Any--

Case Number

Please exclude hypens

Business or Last Name

Enter Business Name for Establishments or Last Name for Practitioner

First Name

City

State

-- Any --

County

--Any--

Action Taken

--Any--

Action Taken Date Between

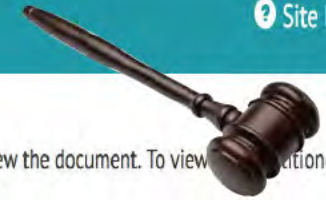
MM/DD/YYYY

And

MM/DD/YYYY

Search

Reset



Sort by selecting column header. If a link to an image of the final order or administrative complaint is available, the case number will be a hyperlink that can be clicked to open and view the document. To view a practitioner's record on the License Verification website, please click on the license number hyperlink in the License column.

« 1 2 3 4 5 6 7 8 9 10 ... » »»

Search Results Total: 231

[Back](#)[New Search](#)[Export](#)

Name	License	Profession	City	State	County	Case #	Action Taken	Action Date
		OCCUPATIONAL THERAPIST	DAVIE	FL	BROWARD		DISCIPLINARY CITATION ISSUED	12/07/2001
		OCCUPATIONAL THERAPIST	DANIA BEACH	FL	BROWARD		OBLIGATIONS IMPOSED-OTHR PENAL	06/07/2002
		OCCUPATIONAL THERAPIST	MIAMI	FL	MIAMI-DADE		DISCIPLINARY CITATION ISSUED	12/06/2001
		OCCUPATIONAL THERAPIST	PHILADELPHIA	PA	OUT OF STATE		OBLIGATIONS IMPOSED	09/30/2005
		OCCUPATIONAL THERAPIST	SPRING HILL	FL	HERNANDO		REVOCATION	12/21/2005
		OCCUPATIONAL THERAPIST	LAKE WORTH	FL	PALM BEACH		FINE	02/16/2004
		OCCUPATIONAL THERAPY ASSISTANT	KISSIMEE	FL	OSCEOLA		VOLUNTARY SURRENDER	06/12/2009
		OCCUPATIONAL THERAPIST	CARLSBAD	CA	OUT OF STATE		VOLUNTARY SURRENDER	10/21/2009
		OCCUPATIONAL THERAPIST	SARASOTA	FL	SARASOTA		VOLUNTARY SURRENDER	07/15/2008
		OCCUPATIONAL THERAPY ASSISTANT	TALLAHASSEE	FL	LEON		VOLUNTARY SURRENDER	07/15/2008
		OCCUPATIONAL THERAPY ASSISTANT	LIGHTHOUSE POINT	FL	BROWARD		VOLUNTARY SURRENDER	10/06/2008
		OCCUPATIONAL THERAPY ASSISTANT	FORT LAUDERDALE	FL	BROWARD		OBLIGATION(S) SATISFIED	06/12/2009
		OCCUPATIONAL THERAPIST	EUSTIS	FL	LAKE		OBLIGATION(S) SATISFIED	05/28/2010
		OCCUPATIONAL THERAPIST	SCHWEINFURT		UNKNOWN		VOLUNTARY SURRENDER	03/05/2009
		OCCUPATIONAL THERAPIST		ZZ			OBLIGATION(S) SATISFIED	06/12/2009
		OCCUPATIONAL THERAPIST	CRESTVIEW	FL	OKALOOSA		OBLIGATION(S) SATISFIED	05/16/2011
		OCCUPATIONAL THERAPIST	FT LAUDERDALE	FL	BROWARD		FINE PAID	05/16/2011

continued Reporting Violations



- The Florida Department of Health's Division of Medical Quality Assurance (MQA) has a health care complaint portal.
 - The portal was developed in collaboration with the Agency for Healthcare Administration and allows convenient reporting of everything from *unlicensed activity* and *health care violations*, to *fraud* and more.
 - The portal provides *education on which state or federal agency to contact* for a variety of issues ranging from Health Insurance Portability and Accountability Act (HIPAA) violations to independent living facilities.
 - To visit the portal and to file a complaint, visit <https://www.flhealthcomplaint.gov>



Physical Agent Modalities

- Outlined Fla. Admin. Code. r. 64B11-4.001 -
Use of Prescription Devices
 - Electrical Stimulation
 - Ultrasound
 - NEW: Neurofeedback Device
- ... physical agent modalities (PAMs) as an adjunct
to or in preparation for purposeful activity

continued Training Required for PAMs



- Use of ultra sound and/or electrical stimulation and/or Neurofeedback devices is expressly prohibited except by OT/OTAs who have received training as specified by the board
- The training required for students, postgraduates, and licensees to qualify for the use of an electrical stimulation device shall include didactic training of at least four (4) hours and performance of at least five (5) treatments under supervision.
 - Four hours of didactic training for each device
 - Five supervised treatments for each device

Fla. Admin. Code. r. 64B11-4.001

Supervised PAMs Tx



- Supervised treatment sessions shall be conducted under the supervision of
 - licensed occupational therapists and occupational therapy assistants who have completed four hours of coursework in the use of electrical stimulation devices (or ultrasound devices) and five (5) supervised treatments or
 - licensed physical therapists and physical therapist assistants trained in the use of electrical stimulation devices (or ultrasound devices).
- Treatment supervisors must have a minimum of 24 months prior experience in the use of electrical stimulation devices (or ultrasound devices)

Fla. Admin. Code. r. 64B11-4.001(1)(2)

continued New Neurofeedback Device Rule



- Rule 64B11-4.001, F.A.C., Neurofeedback Device
 - Per Board rules, was out for public comments, adopted by the Board and effective in September, 2020.
 - (b) “a “neurofeedback device” is any device that provides immediate feedback from a computer-based program that measures brainwave activity with the use of sound, visual and/or tactile input to cue the brain to reorganize and retrain itself.”
 - (c) Requires “didactic training of at least sixteen (16) hours and performance of at least five (5) treatments under supervision.”
 - “(d) Supervised treatment sessions shall be conducted under the personal supervision of licensed occupational therapists and occupational therapy assistants who have completed sixteen (16) hours of coursework in the use of neurofeedback devices and five (5) supervised treatments, licensed physical therapists and physical therapist assistants who have completed sixteen(16) hours of coursework in the use of neurofeedback devices and five (5) supervised treatments....”

continued New Neurofeedback Device Rule



- Rule 64B11-4.001, F.A.C., Neurofeedback Device (PAM)
 - Provides very specific requirement for the training including requirements for
 - "Standards,"
 - "Instrumentation,"
 - "Preparation for Training,"
 - "Determination of training duration and intensity,"
 - "Training Administration," and
 - "Documentation of Neurofeedback Training."
 - "Any occupational therapist or occupational therapy assistant who uses such neurofeedback device shall, upon request of the Board, or the Department, present proof that he or she has obtained the training required by this rule."

continued Mandatory Continuing Ed



- Twenty-six contact hours of approved CE every two years (Contact hour is defined as 50 minutes). Fla. Admin. Code. r. 64B11-5.001
- Total number of CEUs is set by the Board. The law allows the Board to require up to 30 CEUs every two years but it requires 26
- Must include:
 - Two hours on OT Laws and Rules
 - Two hours on Prevention of Medical Errors
 - New: One hour of Human Trafficking only once before 1/1/2021 - not for every renewal
 - (OT licensees only need to obtain HIV/AIDS Education for license renewal for those renewing their licensees for the first time (i.e. new applicants will need to obtain HIV/AIDS Education prior to their first renewal))



Mandatory Continuing Ed

- OT licensees only need to obtain HIV/AIDS Education for license renewal for those renewing their licenses for the first time (i.e. new applicants will need to obtain HIV/AIDS Education prior to their first renewal)



Board Approved CE Activities

- Continuing education includes attendance and participation as required at a live presentation such as a workshop, seminar, conference, or in-service educational programs * *
- * NBCOT approved activities – not necessarily same value awarded as FL: PDU ≠ CEU
- If you meet the CEU requirements for Florida, you have enough to renew your NBCOT certification



Board Approved CE Activities

- May also include, but are not limited to, electronic or web-based courses, formalized self-study courses and continuing education articles. (Fla. Admin. Code. r. 64B11-5.001) * *
- Also includes formal educational programs – includes OT graduate courses (10 contact hours per semester hour) * *
- May also include participation as a Volunteer Expert Witness for cases reviewed by the Board under the Occupational Therapy Practice Act– 3 hours for each case reviewed for a maximum of 6 hours

continued Board Approved CE Activities



- Home Study: A licensee may receive continuing education credit for no more than twelve (12) hours of home study education per biennium.
 - Home study education is a self-paced, non-interactive independent study that requires a certificate of completion.
 - Taking a computerized exam at the end of the study, or being able to email the instructor with a question, does not qualify home study as a live or interactive course.
 - Consistent with subsection Fla. Stat. §456.013(8) continuing education credit for video presentations is limited to five (5) credits per subject
 - At the time of course presentation, rental, or sale, the course vendor, in lieu of the certificate of completion, shall provide the licensee with a signed course validation form.
 - The licensee shall sign this form on the date that the course is actually taken or viewed indicating full attendance and successful completion and retain it for four (4) years.



Board Approved CE Activities

- NEW: At least fourteen (14) of the required hours per biennium must be in person or from interactive, real-time courses.....But
 - An interactive, real-time course may be a web-based, satellite transmitted, telephone or video conference, or online instruction program that allows or requires the licensee to interact in real time, including live chat, with the instructor during the presentation of the program or in a question and answer session upon completion of the program. (NEW!!!!)
 -

continued Board Approved CE Activities



- Activities that may receive continuing education credit – A maximum of 8 contact hours may be awarded per biennium for each of the following:
 - Presentation of (directly related to practice of OT):
 - Continuing education course (presenter or author)
 - Academic course
 - Peer reviewed or non peer reviewed workshop
 - Seminar, In-service
 - Electronic or Web based course
 - Can get credit as author and/or instructor of a post-secondary academic course for the parts they authored or presented
 - Documentation shall include a copy of the official program/schedule/syllabus including presentation title, date, hours of presentation, and type of audience or verification of such signed by the sponsor.
- F.A.C. 64B11-5.001 (10)



Board Approved CE Activities

- Presenters can only get credit for the first presentation
 - Exception: Continuing education credit for presentations of either medical errors or laws and rules courses is limited to four (4) credits per biennium.
- Attendance at Florida Board of Occupational Therapy Practice meetings – (if you are not on the agenda)



Board Approved CE Activities

- Supervising Fieldwork Students: Awarding a licensee up to 6 hours of continuing education hours per biennium for supervision of a Level II Occupational Therapy or Occupational Therapy Assistant fieldwork student at the rate of no more than 3 hours per student * *
- Must be primary supervisor – document student, school, dates, and FW evaluation signature page (block scores and comments)



Board Approved CE Activities

- Awarding continuing education credit for publications**
 - 10 hours as the author of a book
 - 5 hours as author of a chapter
 - 3 hours as author of a peer-reviewed article
 - 1 hour as author of a non peer-reviewed article
 - 5 hours as an editor of a book
- Required Documentation: a full reference for the publication including title, author, editor, and date of publication.



Board Approved CE Activities

- Awarding continuing education credit for research activities* *
 - 1 hour of continuing education for each 10 hours spent in development of or participation in a research project to and directly related to the practice of OT up to a limit of 5 hours per biennium
 - Documentation shall include verification from the primary investigator indicating the name of the research project, dates of participation, major hypotheses or objectives of the project, and the licensee's role in the project.

- [See 64B11-5.001\(13\), F.A.C.](#)

continued Board Approved CE Activities



- Performance of Pro Bono (Free) Services
 - A licensee may receive Up to 6 hours per biennium: **Performance of Pro Bono Services** to the indigent as provided in [Section 456.013\(9\), F.S.](#), or to underserved populations, or in areas of critical need within the state where the licensee practices.
 - In order to receive credit under this rule, licensees must make a request to the Board and receive approval in advance. One (1) hour credit for each two (2) hours worked.
[See 64B11-5.001\(15\), F.A.C.](#)
 - In the written request, licensees shall disclose the type, nature and extent of services to be rendered, the facility where the services will be rendered, the number of patients expected to be serviced, and a statement indicating that the patients to be served are indigent. If the licensee intends to provide services in underserved or critical need areas, the written request shall provide a brief explanation as to those facts



Mandatory CE

- OT Laws and Rules Course
 - Required to take a two hour **board approved** course for licensure renewal only
- Prevention of Medical Errors
 - Required to take a two hour **board approved** course for licensure renewal only
 - Course shall include a study of root-cause analysis, error reduction and prevention, and patient safety and must include contra-indications and indications specific to occupational therapy management including medication and side effects



Mandatory CE

- AOTA, FOTA, Universities are automatically approved providers, as are the providers sanctioned by FOTA or approved by AOTA F.A.C. § 64B11-6.001 (4a)
 - All still need specific board approval for:
 - Prevention of Medical Errors and OT Laws and Rules course
- Other “agencies” may apply for approval to provide continuing education courses
 - (Fla. Admin. Code. r. 64B11-6.001)

continued Mandatory CE – Time Change



Continuing education not pre-approved (provider didn't apply), may still be appropriate if meets the requirements of (Fla. Admin. Code. r. 64B11-6.001 (5))

- a) Must be relevant to the practice of OT as defined by the rule
- b) The instructor(s) possess appropriate education, experience and credentials relevant to the course or program's subject matter.
- c) The course/program's educational goals, objectives and teaching methods are adequately identified in promotional materials.
- d) (NEW) The course or program must be presented in a time block of at least one half contact hour.
- e) The provider of the course or program must present a certificate indicating full attendance and successful completion of the course or program to each licensee.
- f) Licensee must keep receipts, vouchers, certificates, or other papers to document completion of continuing education courses for no less than four years from the date taken



Exemption from CE Req.

- The spouse of a member of the Armed Forces of the United States shall be exempt from all licensure renewal provisions for any period of time which the licensee is absent from the State of Florida due to the spouse's duties with the Armed Forces



CE Broker

- CE Broker Web site - <http://www.cebroke.com>
 - Licensees must ensure their continuing education records are complete on the CE Broker tracking system in order to proceed with renewing their licenses



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- Receive Updates from the Board? Sign up here
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Sunday, December 13th, 2020

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Renewals

Resources

Meetings

The Board

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Continuing Education
INFORMATION



<https://floridasoccupationaltherapy.gov/resources/>



Licensure Compact Info

- The Florida Board of Occupational Therapy reported that it received information from AOTA about the status of the inter-state licensure compact that AOTA is working on
 - However, no compact legislation has been introduced in the Florida legislature (Board Meeting minutes, August 2020)

continued Changes to the Application



- The 456.0635 History Section of the application has been updated to ask questions to distinguish applicants who are listed on the U.S. Department of Health & Human Services' Office of the Inspector General's List of Excluded Individual Entities (LEIE) *only* due to a Federal student loan default. Applicants listed on the LEIE only due to this default, will not automatically be "prohibited" from licensure.
- *Are you currently listed on the United States Department of Health and Human Services' Office of the Inspector General's List of Excluded Individuals and Entities (LEIE)? Yes No*
 - a. If you responded "Yes" to the question above, are you listed because you defaulted or are delinquent on a student loan? Yes No*
 - b. If you responded "Yes" to question 5.a., is the student loan default or delinquency the only reason you are listed on the LEIE? Yes No*
- NEW: Applicants listed on the LEIE only due to this default will not automatically be prohibited from licensure.
- May and August 2020 Florida Board of Occupational Therapy meeting recordings and minutes <https://floridasoccupationaltherapy.gov/meeting-information/past-meetings/>

continued New Addition to the OT Rules



Emotional Support Animal (Fraud?)

(pp) Providing information, including written documentation, indicating that a person's need for an emotional support animal under s. 760.27 without personal knowledge of the person's disability or disability-related need for the specific emotional support animal. (Section 456.072(1)(pp), F.S.)

	<u>Minimum</u>	<u>Maximum</u>
<u>First Offense</u>	<u>1-year probation with conditions and a \$5,000 fine.</u>	<u>6 months suspension, 6 months probation with conditions, and a \$10,000 fine.</u>
<u>Second and Subsequent Offenses</u>	<u>1-year suspension, 1-year probation with conditions, and a \$5,000 fine.</u>	<u>Permanent revocation and a \$10,000 fine.</u>



Contact

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References:

- AOTA Commission on Standards and Ethics. *AOTA Code of Ethics 5th edition*. To be published in *American Journal of Occupational Therapy*, 74(Suppl. 3). Available for download from <https://www.aota.org/-/media/Corporate/Files/Practice/Ethics/AOTA-2020-Code-of-Ethics.pdf>
- *Board of Occupational Therapy Practice Meeting Minutes*, (2020, Nov.). <https://floridasoccupationaltherapy.gov/meetings/minutes/2020/11-november/11092020-minutes.pdf>
- Centers for Medicare and Medicaid Services. Medicare Learning Network. (2020, March). *Telehealth services*. Retrieved from <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/Telehealth-Services-Text-Only.pdf>
- **Florida Statutes:**[Chapter 468, Part III](#) *et seq.*: Occupational Therapy; [Chapter 456, Florida Statutes](#) *et seq.*: Health Professions and Occupations: General Provisions; [Chapter 120, Florida Statutes](#) *et seq.*: Administrative Procedure Act
- **Florida Administrative Code:** [Rules: Chapter 64B11](#) *et seq.*: Board of Occupational Therapy, Florida Administrative Code
- Florida law, Ch. 2019 -137;
- Florida Board of Occupational Therapy <https://floridasoccupationaltherapy.gov/>
- Telehealth in Occupational Therapy *American Journal of Occupational Therapy*, (December 2018). Vol. 72, 7212410059. <https://doi.org/10.5014/ajot.2018.72S219>