

MODEL OCCUPATIONAL THERAPY PRACTICE ACT

The Model Occupational Therapy Practice Act (Model Practice Act) has been developed by the State Affairs Group of the American Occupational Therapy Association, in collaboration with the Commission on Practice for use by state occupational therapy associations or state regulatory boards interested in developing or revising legislation to regulate the practice of Occupational Therapy. The Model Practice Act also includes the definition of Occupational Therapy, which is approved by the Representative Assembly Coordinating Committee (RACC) on behalf of the Representative Assembly (RA) and is included in the Scope of Practice Official Document¹. The current definition was approved in 2021.

The Model Practice Act must be reviewed and carefully adapted to comply with a state's legislative requirements and practices. It must also be adapted to reflect a state's administrative and regulatory laws and other legal procedures. The Model Practice Act leaves blanks or indicates alternatives in brackets when further detail needs to be considered or when adaptations are especially necessary. The term "state" is used throughout the document for ease of reading. Other jurisdictions, such as the District of Columbia and Puerto Rico, will need to modify the language accordingly.

¹ American Occupational Therapy Association. (2021). Occupational therapy scope of practice. *American Journal of Occupational Therapy*, 75(Suppl. 3), 7513410030. <https://doi.org/10.5014/ajot.2021.75S3005>

MODEL OCCUPATIONAL THERAPY PRACTICE ACT TABLE OF CONTENTS

Article I. General Provisions	3
1.01 Title	3
1.02 Short Title	3
1.03 Legislative Intent and Purpose.....	3
1.04 Definitions.....	3
Article II. Board of Occupational Therapy	5
2.01 Board Created	5
2.02 Board Composition	6
2.03 Qualifications	6
2.04 Appointments.....	6
2.05 Terms	6
2.06 Vacancies.....	7
2.07 Removal of Board Members	7
2.08 Compensation of Board Members	7
2.09 Administrative Provisions.....	7
2.10 Meetings.....	7
2.11 Powers and Duties	8
2.12 Training of New Members.....	8
Article III. Licensing and Examination	8
3.01 Requirements for Licensure.....	8
3.02 Internationally Educated Applicants	9
3.03 Limited Permit.....	9
3.04 Temporary License	9
3.05 Issuance of License	9
3.06 Renewal of License	9
3.07 Inactive License	10
3.08 Re-entry.....	10
3.09 Fees	10
Article IV. Regulation of Practice	10
4.01 Unlawful Practice.....	10
4.02 Exemptions.....	11
4.03 Titles and Designations	11
4.04 Grounds for Disciplinary Action.....	11
4.05 Complaints	12
4.06 Due Process.....	13
4.07 Investigation	13
4.08 Penalties.....	14
4.09 Injunction.....	14
4.10 Duty to Refer	14
4.11 Telehealth.....	15
Article V. Other.....	15
5.01 Severability.....	15
5.02 Effective Date	15

Article I. General Provisions

1.01 Title [Title should conform to state requirements. The following is suggested for appropriate adaptation.]

An Act providing for the licensure of Occupational Therapists and Occupational Therapy Assistants; for a Board of Occupational Therapy practice and its powers and duties; and for related purposes.

1.02 Short Title

This Act shall be known and may be cited as the "Occupational Therapy Practice Act."

1.03 Legislative Intent and Purpose

The Legislature finds and declares that the Occupational Therapy Practice Act is enacted to safeguard public health, safety, and welfare; to protect the public from incompetent, unethical, or unauthorized persons; to assure a high level of professional conduct on the part of Occupational Therapists and Occupational Therapy Assistants; and to assure the availability of high quality Occupational Therapy services to persons in need of such services. It is the purpose of this Act to provide for the regulation of persons representing themselves as Occupational Therapists or as Occupational Therapy Assistants, or performing services that constitute Occupational Therapy.

1.04 Definitions

- (1) "Act" means the Occupational Therapy Practice Act.
- (2) "Aide" means a person who is not licensed by the Board and who provides supportive services to Occupational Therapists and Occupational Therapy Assistants. An Aide shall function only under the guidance, responsibility, and supervision of the licensed Occupational Therapist or an Occupational Therapy Assistant who is appropriately supervised by an Occupational Therapist. An Aide does not provide occupational therapy services. An Aide must first demonstrate competence before performing assigned, delegated, client related and non-client related tasks.
- (3) "Association" means the _____ State Occupational Therapy Association.
- (4) "Board" means the _____ State Board of Occupational Therapy.
- (5) "Good Standing" means the individual's license is not currently suspended or revoked by any State regulatory entity.
- (6) "Continuing Competence" means the process in which an occupational therapist or occupational therapy assistant develops and maintains the knowledge, critical reasoning, interpersonal skills, performance skills, and ethical practice necessary to perform their occupational therapy responsibilities.
- (7) "The Practice of Occupational Therapy" means the therapeutic use of everyday life occupations with persons, groups, or populations (clients) to support occupational performance and participation. Occupational therapy practice includes clinical reasoning and professional judgment to evaluate, analyze, and diagnose occupational challenges (e.g., issues with client factors, performance patterns, and performance skills) and provide occupation-based interventions to address them. Occupational therapy services include habilitation, rehabilitation, and the promotion of physical and mental health and wellness for clients with all levels of ability-related needs. These services are provided for clients who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Through the provision of skilled services and engagement in everyday activities, occupational therapy promotes physical and mental health and well-being by supporting occupational performance in people with, or at risk of experiencing, a range of developmental,

physical, and mental health disorders. The practice of occupational therapy includes the following components:

- a) Evaluation of factors affecting activities of daily living (ADLs), instrumental activities of daily living (IADLs), health management, rest and sleep, education, work, play, leisure, and social participation, including
 1. Context (environmental and personal factors) and occupational and activity demands that affect performance
 2. Performance patterns including habits, routines, roles, and rituals
 3. Performance skills, including motor skills (e.g., moving oneself or moving and interacting with objects), process skills (e.g., actions related to selecting, interacting with, and using tangible task objects), and social interaction skills (e.g., using verbal and nonverbal skills to communicate)
 4. Client factors, including body functions (e.g., neuromuscular, sensory, visual, mental, psychosocial, cognitive, pain factors), body structures (e.g., cardiovascular, digestive, nervous, integumentary, and genitourinary systems; structures related to movement), values, and spirituality
- b) Methods or approaches to identify and select interventions, such as
 1. Establishment, remediation, or restoration of a skill or ability that has not yet developed, is impaired, or is in decline
 2. Compensation, modification, or adaptation of occupations, activities, and contexts to improve or enhance performance
 3. Maintenance of capabilities to prevent decline in performance in everyday life occupations
 4. Health promotion and wellness to enable or enhance performance in everyday life activities and quality of life
 5. Prevention of occurrence or emergence of barriers to performance and participation, including injury and disability prevention
- c) Interventions and procedures to promote or enhance safety and performance in ADLs, IADLs, health management, rest and sleep, education, work, play, leisure, and social participation, for example:
 1. Therapeutic use of occupations and activities
 2. Training in self-care, self-management, health management (e.g., medication management, health routines), home management, community/work integration, school activities, and work performance
 3. Identification, development, remediation, or compensation of physical, neuromusculoskeletal, sensory–perceptual, emotional regulation, visual, mental, and cognitive functions; pain tolerance and management; praxis; developmental skills; and behavioral skills
 4. Education and training of persons, including family members, caregivers, groups, populations, and others
 5. Care coordination, case management, and transition services
 6. Consultative services to persons, groups, populations, programs, organizations, and communities
 7. Virtual interventions (e.g., simulated, real-time, and near-time technologies, including telehealth and mobile technology)
 8. Modification of contexts (environmental and personal factors in settings such as home, work, school, and community) and adaptation of processes, including the application of ergonomic principles

9. Assessment, design, fabrication, application, fitting, and training in seating and positioning, assistive technology, adaptive devices, and orthotic devices, and training in the use of prosthetic devices
 10. Assessment, recommendation, and training in techniques to enhance functional mobility, including fitting and management of wheelchairs and other mobility devices
 11. Exercises, including tasks and methods to increase motion, strength, and endurance for occupational participation
 12. Remediation of and compensation for visual deficits, including low vision rehabilitation
 13. Driver rehabilitation and community mobility
 14. Management of feeding, eating, and swallowing to enable eating and feeding performance
 15. Application of physical agent and mechanical modalities and use of a range of specific therapeutic procedures (e.g., wound care management; techniques to enhance sensory, motor, perceptual, and cognitive processing; manual therapy techniques) to enhance performance skills
 16. Facilitating the occupational participation of persons, groups, or populations through modification of contexts (environmental and personal) and adaptation of processes
 17. Efforts directed toward promoting occupational justice and empowering clients to seek and obtain resources to fully participate in their everyday life occupations
 18. Group interventions (e.g., use of dynamics of group and social interaction to facilitate learning and skill acquisition across the life course).
- (8) "Occupational Therapist" means a person licensed to practice Occupational Therapy under this Act. The Occupational Therapist is responsible for and directs the evaluation process, develops the intervention plan, and provides occupational therapy services.
 - (9) "Occupational Therapy Assistant" means a person licensed to assist in the practice of Occupational Therapy under this Act and who shall work under the appropriate supervision of and in partnership with an Occupational Therapist.
 - (10) "Person" means any individual, partnership, unincorporated organization, limited liability entity, or corporate body, except that only an individual may be licensed under this Act.
 - (11) "Supervision" means a collaborative process for responsible, periodic review and inspection of all aspects of occupational therapy services. The Occupational Therapist is accountable for occupational therapy services provided by the Occupational Therapy Assistant and the Aide. In addition, the Occupational Therapy Assistant is accountable for occupational therapy services they provide. Within the scope of occupational therapy practice, supervision is aimed at ensuring the safe and effective delivery of occupational therapy services and fostering professional competence and development.
 - (12) "Telehealth" means the application of evaluation, consultative, preventative, and therapeutic services delivered through information and communication technology.

Article II. Board of Occupational Therapy

2.01 Board Created

There is hereby established the _____ Board of Occupational Therapy hereafter referred to as the Board, which shall be responsible for the implementation and enforcement of this Act.

2.02 Board Composition

- (1) The Board shall be composed of at least five individuals appointed by the Governor.
- (2) At least two members shall be licensed as Occupational Therapists in this state.
- (3) At least one member shall be an Occupational Therapy Assistant licensed in this state.
- (4) At least two members shall be representatives of the public with an interest in the rights of consumers of health and wellness services (public member) and a representative of healthcare or education (consumer member).

2.03 Qualifications

- (1) Public and Consumer Members must reside in this state for at least 5 years immediately preceding their appointment. Public members and consumer members shall understand or be willing to learn the specific responsibilities of the Board; be willing to learn about and develop contacts with major community service, civic, consumer, public service, religious, and other organizations in their state that have an interest in health care delivery and health care policy, including organizations that represent disadvantaged communities, rural, and non-English speaking populations; and have a track record of advocacy related to furthering consumer interests, especially in the area of health care. Public and consumer members may not be or have ever been Occupational Therapists or Occupational Therapy Assistants or in training to become an Occupational Therapist or Occupational Therapy Assistant. Public and consumer members may not be related to or have a household member who is an Occupational Therapist or an Occupational Therapy Assistant. The consumer member shall have knowledge of the profession of occupational therapy through personal experience. The public member shall have knowledge of the profession of occupational therapy through professional experience in health care reimbursement, regulatory, or policy arenas.
- (2) Occupational Therapy and Occupational Therapy Assistant members must be licensed consistent with state law and reside in the state for at least 5 years, or have a privilege to practice through the Occupational Therapy Licensure Compact, and have been engaged in: rendering occupational therapy services to the public; teaching; consultation; or research in occupational therapy for at least 5 years, including the 3 years immediately preceding their appointment.
- (3) No member shall be a current officer, Board member, or employee of a statewide organization established for the purpose of advocating for the interests of persons licensed under this Act.

2.04 Appointments

- (1) Within 90 days after the enactment of this Act, the first Board shall be appointed by the Governor from a list of names submitted by the State Occupational Therapy Association and from nominations submitted by interested organizations or persons in the state.
- (2) Each subsequent appointment shall be made from recommendations submitted by the State Occupational Therapy Association or from recommendations submitted by other interested organizations or persons in the state.

2.05 Terms

- (1) Appointments to the Board shall be for a period of 3 years, except for the initial appointments which shall be staggered terms of 1, 2, and 3 years. Members shall serve until the expiration of the term for which they have been appointed or until their successors have been appointed to serve on the Board. No member may serve more than two consecutive 3-year terms or for six consecutive years.

- (2) Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed by this section.

2.06 Vacancies

In the event of a vacancy in the office of a member of the Board other than by expiration of a term, the Governor shall appoint a qualified person to fill the vacancy for the unexpired term.

2.07 Removal of Board Members

The Governor or the Board may remove a member of the Board for incompetence, professional misconduct, conflict of interest, or neglect of duty after written notice and opportunity for a hearing. The Board shall be responsible for defining the standards for removal for regulation.

2.08 Compensation of Board Members

Members of the Board shall receive no compensation for their services, but shall be entitled to reasonable reimbursement for travel and other expenses incurred in the execution of their powers and duties.

2.09 Administrative Provisions

- (1) The Board may employ and discharge an Administrator and such officers and employees as it deems necessary, and shall determine their duties in accordance with [applicable State statute].
- (2) [This subsection should be used to include administrative detail covering revenues and expenditures, authentication and preservation of documents, promulgation of rules and regulations, etc., in accordance with prevailing state practice, and to the extent that such detail is not already taken care of in state laws of general applicability.]

2.10 Meetings

- (1) The Board shall, at the first meeting of each calendar year, select a Chairperson and conduct other appropriate business.
- (2) At least three additional meetings shall be held before the end of each calendar year.
- (3) Other meetings, including telecommunication conference meetings, may be convened at the call of the Chairperson or the written request of two of more Board members.
- (4) A majority of the members of the Board shall constitute a quorum for all purposes. The quorum must include at least one Occupational Therapist.
- (5) The Board shall conduct its meetings and keep records of its proceedings in accordance with the provisions of the Administrative Procedure Act of this state.
- (6) All Board meetings and hearings shall be open to the public. The Board may, in its discretion and according to the state's Administrative Procedures Act [or other comparable statute], conduct any portion of its meetings or hearings in executive session, closed to the public.
- (7) The Board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the Board and to speak on any issue under Board jurisdiction.

2.11 Powers and Duties

- (1) The Board shall, in accordance with the Administrative Procedures Act, perform all lawful functions consistent with this Act, or otherwise authorized by state law including that it shall:
 - a. Administer, coordinate, and enforce the provisions of this Act;
 - b. Evaluate applicants' qualifications for licensure in a timely manner;
 - c. Establish licensure fees and issue, renew, or deny licenses;
 - d. Issue subpoenas, examine witnesses, and administer oaths;
 - e. Investigate allegations of practices violating the provisions of this Act;
 - f. Make, adopt, amend, and repeal such rules as may be deemed necessary by the Board from time to time for the proper administration and enforcement of this Act;
 - g. Conduct hearings and keep records and minutes;
 - h. Establish a system for giving the public, including its regulated profession, reasonable advance notice of all open Board and committee meetings. Emergency meetings, including telephone or other telecommunication conference meetings, shall be held in accordance with applicable Administrative Procedures Act provisions;
 - i. Communicate disciplinary actions to relevant state and federal authorities, the National Board for Certification in Occupational Therapy (NBCOT), the American Occupational Therapy Association (AOTA) Ethics Commission, and to other State OT licensing authorities;
 - j. Publish at least annually Board rulings, opinions, and interpretations of statutes or rules in order to guide persons regulated by this Act; and
 - k. Establish a system for tracking the amount of time the Board takes to issue an initial license or licensure renewal to an applicant.
- (2) No member of the Board shall be civilly liable for any act or failure to act performed in good faith in the performance of his or her duties as prescribed by law.

2.12 Training of New Members

The Board shall conduct and new members shall attend a training program designed to familiarize new members with their duties. A training program for new members shall be held as needed.

Article III. Licensing and Examination

3.01 Requirements for Licensure

An applicant applying for a license as an Occupational Therapist or as an Occupational Therapy Assistant shall file a written application provided by the Board, demonstrating to the satisfaction of the Board that the applicant

- (1) Is in good standing as defined in Section 1.04;
- (2) Has successfully completed the minimum academic requirements of an educational program for Occupational Therapists or Occupational Therapy Assistants that is accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE) or predecessor organizations;
- (3) Has successfully completed a minimum period of supervised fieldwork experience required by the recognized educational institution where the applicant met the academic requirements described in Section 3.03 (2); and
- (4) Has passed an examination administered by the National Board for Certification in Occupational Therapy (NBCOT), a predecessor organization, or another nationally recognized credentialing body as approved by the Board.

3.02 Internationally Educated Applicants

An Occupational Therapist who is a graduate of a school of occupational therapy that is located outside of the United States and its territories shall:

- (1) Complete occupational therapy education programs (including fieldwork requirements) that are deemed comparable by the credentialing body recognized by the state occupational therapy regulatory board or agency to entry-level occupational therapy education programs in the United States.
- (2) Fulfill examination requirement described in section 3.01(4).

3.03 Limited Permit

- (1) A limited permit to practice occupational therapy may be granted to a person who has completed the academic and fieldwork requirements for Occupational Therapist of this Act and has not yet taken or received the results of the entry-level certification examination. This permit shall be valid for ___ months and shall allow the person to practice occupational therapy under the direction and appropriate supervision of an Occupational Therapist licensed under this Act. This permit shall expire when the person is issued a license under Section 3.01 or if the person is notified that they did not pass the examination. The limited permit may not be renewed.
- (2) A limited permit to assist in the practice of occupational therapy may be granted to a person who has completed the academic and fieldwork requirements of Occupational Therapy Assistant of this Act and has not yet taken or received the results of the entry-level certification examination. This permit shall be valid for ___ months and shall allow the person to practice occupational therapy under the direction and appropriate supervision of an Occupational Therapist licensed under this Act. This permit shall expire when the person is issued a license under Section 3.01 or if the person is notified that they did not pass the examination. The limited permit may not be renewed.

3.04 Temporary License

An applicant who is currently licensed and in good standing to practice in another jurisdiction and meets the requirements for licensure by endorsement may obtain a temporary license while the application is being processed by the Board.

3.05 Issuance of License

The Board shall issue a license to any person who meets the requirements of this Act, as described in sections 3.01 or 3.02, upon payment of the prescribed license fee as described in Section 3.09.

3.06 Renewal of License

- (1) Any license issued under this Act shall be subject to annual [biennial] renewal and shall expire unless renewed in the manner prescribed by the rules and regulations of the Board.
- (2) The Board shall prescribe by rule continuing competence requirements as a condition for renewal of licensure.
- (3) The Board may provide late renewal of a license upon the payment of a late fee in accordance with its rules and regulations.
- (4) Licensees are granted a grace period of 30 days after the expiration of their licenses in which to renew retroactively if they meet statutory requirements for renewal and pay to the Board the renewal fee and any late fee set by the Board.

- (5) A suspended license is subject to expiration and may be renewed as provided in this Act, but such renewal shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order of judgement by which the license was suspended.
- (6) A license revoked on disciplinary grounds may not be renewed or restored.

3.07 Inactive License

- (1) Upon request, the Board shall grant inactive status to a licensee who is in good standing and maintains continuing competence requirements established by the Board, and
 - a. Does not practice during such "inactive" period as an Occupational Therapist or an Occupational Therapy Assistant, and
 - b. Does not during such "inactive" period hold themselves out as an Occupational Therapist or an Occupational Therapy Assistant.

3.08 Re-entry

- (1) Reentering Occupational Therapists and Occupational Therapy Assistants are individuals who have previously practiced in the field of occupational therapy and have not engaged in the practice of occupational therapy for a minimum of 24 months.
- (2) Occupational Therapists and Occupational Therapy Assistants who are seeking re-entry must fulfill re-entry requirements as prescribed by the Board in regulations.

3.09 Fees

- (1) Consistent with the Administrative Procedures Act, the Board shall prescribe, and publish in the manner established by its rules, fees in amounts determined by the Board for the following:
 - a. Initial license fee
 - b. Renewal of license fee
 - c. Late renewal fee
 - d. Limited permit fee
 - e. Temporary license fee
 - f. Any other fees it determines appropriate.
- (2) These fees shall be set in such an amount as to reimburse the state, to the extent feasible, for the cost of the services rendered.

Article IV. Regulation of Practice

4.01 Unlawful Practice

- (1) No person shall practice occupational therapy or assist in the practice of occupational therapy or provide occupational therapy services or hold themselves as an Occupational Therapist or Occupational Therapy Assistant, or as being able to practice occupational therapy or assist in the practice of occupational therapy or provide occupational therapy services in this state unless they are licensed under the provisions of this Act.
- (2) It is unlawful for any person not licensed as an Occupational Therapist in this state or whose license is suspended or revoked to use in connection with their name or place of business in this state, the words "Occupational Therapist," "licensed Occupational Therapist," "Doctor of Occupational Therapy," or the professional abbreviations "O.T.," "O.T.L.," "M.O.T.," "O.T.D.," "M.O.T./L.," "O.T.D./L." or any word, title, letters, or designation that implies that the person practices or is authorized to practice occupational therapy.

- (3) It is unlawful for any person not licensed as an Occupational Therapy Assistant in this state or whose license is suspended or revoked to use in connection with their name or place of business in this state, the words “Occupational Therapy Assistant,” “licensed Occupational Therapy Assistant,” or the professional abbreviations “O.T.A.” or “O.T.A./L.,” or use any word, title, letters, or designation that implies that the person assists in, or is authorized to assist in, the practice of occupational therapy as an Occupational Therapy Assistant.

4.02 Exemptions

This Act does not prevent or restrict the practice, service, or activities of:

- (1) Any person licensed or otherwise regulated in this state by any other law from engaging in their profession or occupation as defined in the Practice Act under which they are licensed.
- (2) Any person pursuing a course of study leading to a degree in occupational therapy at an accredited educational program, if that person is designated by a title that clearly indicates their status as a student and if they act under appropriate instruction and supervision.
- (3) Any person fulfilling the supervised fieldwork experience requirements of Section 3.01 of this Act, if the experience constitutes a part of the experience necessary to meet the requirement of that section and they act under appropriate supervision.
- (4) Any person fulfilling a supervised or mentored occupational therapy doctoral capstone experience.
- (5) An Occupational Therapist or Occupational Therapy Assistant who is authorized to practice occupational therapy in any jurisdiction, if they practice occupational therapy in this state for the purpose of education, consulting, or training, for the duration of the purpose, as preapproved by the Board;

4.03 Titles and Designations

- (1) A licensed Occupational Therapist may use the words “occupational therapist,” “licensed occupational therapist,” or any words, title, letters, or other appropriate designation that indicates licensure, including but not limited to OT or OT/L, MOT/L, MSOT/L, and OTD/L that identifies the person as a licensed Occupational Therapist in connection with:
 - a. Their name or place of business; and
 - b. Any activity, practice, or service, so long as they are at all times in conformance with the requirements of this Act when providing occupational therapy services.
- (2) A licensed Occupational Therapy Assistant may use the words “occupational therapy assistant,” “licensed occupational therapy assistant,” or any word, title, letters, or other appropriate designation that indicates licensure including, but not limited to OTA or OTA/L that identifies the person as a licensed Occupational Therapy Assistant in connection with:
 - a. Their name or place of business; and
 - b. Any activity, practice, or service, so long as they are at all times in conformance with the requirements of this Act when providing occupational therapy services.

4.04 Grounds for Disciplinary Action

The Board may take action against a licensee as described in Section 4.08 for unprofessional conduct including:

- (1) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts.

- (2) Being guilty of unprofessional conduct as defined by the rules established by the Board, or violating the Code of Ethics adopted and published by the Board.
- (3) Being convicted of a crime in any court except for minor offenses.
- (4) Violating any lawful order, rule, or regulation rendered or adopted by the Board.
- (5) Violating any provision of this Act (or regulations pursuant to this Act).
- (6) Practicing beyond the scope of the practice of occupational therapy.
- (7) Providing substandard care as an Occupational Therapist due to a deliberate or negligent act or failure to act regardless of whether actual injury to the client is established.
- (8) Providing substandard care as an Occupational Therapy Assistant, including exceeding the authority to perform components of intervention selected and delegated by the supervising Occupational Therapist regardless of whether actual injury to the client is established.
- (9) Knowingly delegating responsibilities to an individual who does not have the knowledge, skills, or abilities to perform those responsibilities.
- (10) Failing to provide appropriate supervision to an Occupational Therapy Assistant or Aide in accordance with this Act and Board rules.
- (11) Practicing as an Occupational Therapist or Occupational Therapy Assistant when competent services to recipients may not be provided due to the practitioner's own physical or mental impairment.
- (12) Having had an Occupational Therapist or Occupational Therapy Assistant license revoked or suspended, other disciplinary action taken, or an application for licensure reused, revoked, or suspended by the proper authorities of another state, territory, or country, irrespective of intervening appeals and stays.
- (13) Engaging in sexual misconduct. For the purposes of this paragraph, sexual misconduct includes:
 - a. Engaging in or soliciting a sexual relationship, whether consensual or non-consensual, while an Occupational Therapist or Occupational Therapy Assistant/client relationship exists with that person.
 - b. Making sexual advances, requesting sexual favors, or engaging in physical contact of a sexual nature with patients or clients.
- (14) Aiding or abetting a person who is not licensed as an Occupational Therapist or Occupational Therapy Assistant in this state and who directly or indirectly performs activities requiring a license.
- (15) Abandoning or neglecting a patient or client under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care.

4.05 Complaints

- (1) Any individual, group, or entity may file a complaint with the Board against any licensed Occupational Therapist or licensed Occupational Therapy Assistant in the state charging that person with having violated the provisions of this Act.
- (2) The complaint shall specify charges in sufficient detail so as to disclose to the accused fully and completely the alleged acts of misconduct for which they are charged.
 - a. "Sufficient Detail" is defined as a complainant's full name and contact information, respondent's full name and contact information when available, alleged violations of Standards of Conduct from the Code, signature or e-signature, and supporting documentation.
- (3) Upon receiving a complaint, the Board shall notify the licensee of the complaint and request a written response from the licensee.

- (4) The Board shall keep an information file about each complaint filed with the Board. The information in each complaint file shall contain complete, current, and accurate information including, but not limited to:
 - a. All persons contacted in relation to the complaint;
 - b. A summary of findings made at each step of the complaint process;
 - c. An explanation of the legal basis and reason for the complaint that is dismissed; and
 - d. Other relevant information.

4.06 Due Process

- (1) Before the Board imposes disciplinary actions, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.
- (2) The Board shall give notice and hold a hearing in accordance with the state's Administrative Procedures Act [or other comparable statute].
- (3) The individual shall be entitled to be heard in their defense, alone or with counsel, and may produce testimony and testify on their own behalf, and present witnesses, within reasonable time limits.
- (4) Any person aggrieved by a final decision of the Board may appeal in accordance with the Administrative Procedures Act [or other comparable statute].

4.07 Investigation

To enforce this Act, the Board is authorized to:

- (1) Receive complaints filed against licensees and conduct a timely investigation.
- (2) Conduct an investigation at any time and on its own initiative without receipt of a written complaint if the Board has reason to believe that there may be a violation of this Act.
- (3) Issue subpoenas to compel the attendance of any witness or the production of any documentation relative to a case.
- (4) For good cause, take emergency action ordering the summary suspension of a license or the restriction of the licensee's practice or employment pending proceedings by the Board.
- (5) Appoint hearing officers authorized to conduct hearings. Hearing officers shall prepare and submit to the Board findings of fact, conclusions of law, and an order that shall be reviewed and voted on by the Board.
- (6) Require a licensee to be examined in order to determine the licensee's professional competence or resolve any other material issue arising from a proceeding.
- (7) Take the following actions if the Board finds that the information received in a complaint or an investigation is not of sufficient seriousness to merit disciplinary action against a licensee:
 - a. Dismiss the complaint if the Board believes the information or complaint is without merit or not within the purview of the Board. The record of the complaint shall be expunged from the licensee's record.
 - b. Issue a confidential advisory letter to the licensee. An advisory letter is non-disciplinary and notifies a licensee that, while there is insufficient evidence to begin disciplinary action, the Board believes that the licensee should be aware of an issue.
- (8) Take other lawful and appropriate actions within its scope of functions and implementation of this Act.

The licensee shall comply with a lawful investigation conducted by the Board.

4.08 Penalties

- (1) Consistent with the Administrative Procedures Act, the Board may impose separately, or in combination, any of the following disciplinary actions on a licensee as provided in this Act:
 - a. Refuse to issue or renew a license;
 - b. Suspend or revoke a license;
 - c. Impose probationary conditions;
 - d. Issue a letter of reprimand, concern, public order, or censure;
 - e. Require restitution of fees;
 - f. Impose a fine not to exceed \$____, which deprives the licensee of any economic advantage gained by the violation and which reimburses the Board for costs of the investigation and proceeding;
 - g. Impose practice and/or supervision requirements;
 - h. Require licensees to participate in continuing competence activities specified by the Board;
 - i. Accept a voluntary surrendering of a license; or
 - j. Take other appropriate corrective actions including advising other parties as needed to protect their legitimate interests and to protect the public.
- (2) If the Board imposes suspension or revocation of license, application may be made to the Board for reinstatement, subject to the limits of section 3.06. The Board shall have the discretion to accept or reject an application for reinstatement and may require an examination or other satisfactory proof of eligibility for reinstatement.
- (3) If a licensee is placed on probation, the Board may require the license holder to:
 - a. Report regularly to the Board on matters that are the basis of probation;
 - b. Limit practice to the areas prescribed by the Board;
 - c. Continue to review continuing competence activities until the license holder attains a degree of skill satisfactory to the Board in those areas that are the basis of the probation;
 - d. Provide other relevant information to the Board.

4.09 Injunction

- (1) The Board is empowered to apply for relief by injunction, without bond, to restrain any person, partnership, or corporation from any threatened or actual act or practice that constitutes an offense against this Act. It shall not be necessary for the Board to allege and prove that there is no adequate remedy at law in order to obtain the relief requested. The members of the Board shall not be individually liable for applying for such relief.
- (2) If a person other than a licensed Occupational Therapist or Occupational Therapy Assistant threatens to engage in or has engaged in any act or practice that constitutes an offense under this Act, a district court of any county on application of the Board may issue an injunction or other appropriate order restraining such conduct.

4.10 Duty to Refer

- (1) An Occupational Therapist may evaluate, initiate, and provide occupational therapy treatment for a client without a referral from other health service providers.
- (2) An Occupational Therapist shall refer recipients to other service providers or consult with other service providers when additional knowledge and expertise are required or when this would further the client's care needs and health outcomes.

4.11 Telehealth

A licensee may provide occupational therapy services to a client utilizing a telehealth visit if the occupational therapy services are provided in accordance with all requirements of this Act.

- (1) "Telehealth Visit" means the provision of occupational therapy services by a licensee to a client using technology where the licensee and client are not in the same physical location for the occupational therapy service.
- (2) A licensee engaged in a telehealth visit shall utilize technology that is secure and compliant with state and federal law.
- (3) A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person occupational therapy. A licensee shall not utilize a telehealth visit if the standard of care for the particular occupational therapy services cannot be met using technology.
- (4) Occupational therapy services provided by telehealth can be synchronous or asynchronous.
 - a. "Asynchronous" means using any transmission to another site for review at a later time that uses a camera or other technology to capture images or data to be recorded.
 - b. "Synchronous" means real-time interactive technology.
- (5) Supervision of Occupational Therapy Assistants, Aides, and students using telehealth technologies must follow existing state law and guidelines regarding supervision, regardless of the method of supervision.

Article V. Other

5.01 Severability

- (1) If a part of this Act is held unconstitutional or invalid, all valid parts that are severable from the invalid or unconstitutional part shall remain in effect.
- (2) If a part of this Act is held unconstitutional or invalid in one or more of its applications, the part shall remain in effect in all constitutional and valid applications that are severable from the invalid applications.

5.02 Effective Date

- (1) The Act, except for Section 3.01, shall take effect ninety (90) days after enactment [unless State practice or requirements require another effective date].
- (2) Section 3.01 of this Act shall take effect 180 days after enactment.