

**The American Occupational Therapy Association  
Advisory Opinion for the Ethics Commission**

**Social Justice and Meeting the Needs of Clients**

**State Licensure, Professionalism, and the *Occupational Therapy Code of Ethics***

“When does your state license expire?” If you are unable to answer this question, please read on to heighten your awareness regarding the importance of state licensure renewal. All states require some kind of regulation, generally licensure, for those wishing to provide occupational therapy services. All occupational therapists in the United States (including the District of Columbia and Puerto Rico) are required to be licensed or to hold a temporary license or permit to provide services to clients. The same is generally true for occupational therapy assistants.

All occupational therapy practitioners are required to adhere to state occupational therapy statutes and regulations. States’ statutes and regulations governing occupational therapy practice vary in their use of titles and initials. Occupational therapists and occupational therapy assistants need to be aware of the specific provisions in their state so that they and their practice are in compliance with the law. It is unlawful for an unlicensed occupational therapist or occupational therapy assistant to represent himself or herself as an occupational therapy practitioner unless he or she is licensed by the state. State licensees who practice occupational therapy without renewing their license may be subject to criminal prosecution, depending on the regulations of the state, district, or province.

The American Occupational Therapy Association (AOTA) *Occupational Therapy Code of Ethics (2015)* (referred to as the “Code”; AOTA, 2015b) identifies standards that support regulatory bodies and licensing of occupational therapy practitioners. Licensure laws and the Code are requisite to protect recipients of services, the practitioner, and the profession. In other words, when practicing without a license, regardless of the reason, the offender not only is violating his or her licensing regulatory board laws but also is breaching the Code. Unfortunately, it is not uncommon for occupational therapy practitioners to have such hectic personal and professional lives that they may neglect to take the time to check when their state license requires renewal. In today’s busy world, a variety of life situations arise that may interfere with obtaining or renewing your license to practice occupational therapy. Relocating without

leaving a forwarding address for your licensure board or moving to a new state may disrupt your typical pattern for licensure renewal. Having a baby, experiencing a serious personal illness, coping with the illness of a family member, or experiencing any other major life event is distracting and may leave practitioners forgetful about licensure renewal.

New practitioners may lack knowledge about how to obtain a license. Practitioners who change employment or work in more than one state may not be aware of each state's licensure requirements. Traveling and international practitioners face the challenge of keeping up with state licensing processes, which are contingent on their relocation and can occur several times within a year.

These examples may sound familiar to you, and there can be understandable reasons for failing to apply for or renew one's license. However, regardless of the situation, each practitioner is ultimately responsible for ensuring that his or her license is current before practicing as an occupational therapist or occupational therapy assistant. AOTA's State Affairs Group maintains detailed information about state occupational therapy laws on the Association's website, including a directory of state occupational therapy regulatory authorities. Practitioners should contact individual state boards or agencies for specific questions about state regulatory requirements.

Licensure is not only a legal measure to protect consumers; it also serves as a safeguard for the profession, the practitioner, and the community at large by preventing unqualified individuals from practicing occupational therapy. As a protective measure for recipients of service, the licensure process affords patients safety in that it prevents individuals who are not trained occupational therapists from assuming such a role and providing spurious intervention under false pretense. An employer, a client, the client's family members, an occupational therapy practitioner, a colleague of another discipline, licensing organizations, or a related professional organization may report practitioners who provide occupational therapy services without a license.

Practitioners reported to be providing occupational therapy services without a license may undergo a review and possibly incur a penalty from several professional oversight organizations, such as the licensing state, district, or province; AOTA; and the National Board for Certification in Occupational Therapy (NBCOT<sup>®</sup>). Unlicensed practitioners who are members of AOTA may be reported to the Association's Ethics Commission (EC) through a formal complaint process by one of the aforementioned groups or individuals. Depending on the

nature of the violation, as ascertained from thorough and objective information from relevant sources (e.g., the state regulatory board, NBCOT, the complainant, the respondent), the EC determines which principles of the Code have been violated. State and national regulatory boards and professional organizations, such as NBCOT (*Practice Standards/ Code of Conduct*; NBCOT, 2015), may adopt AOTA's Code or similar ethical language. The following are examples of Code principles one would violate by practicing without a license or with an expired or lapsed license:

- Principle 1G: "Occupational therapy personnel shall maintain competency by on-going participation in education relevant to their practice area" (AOTA, 2015b, p. 3).
- Principle 4G: "Occupational therapy personnel shall hold requisite credentials for the occupational therapy services they provide in academic, research, physical, or virtual work settings" (p. 5).

All occupational therapy practitioners are ethically bound to adhere to and follow the credential requirements of their state, territory, or district in particular, maintaining the required credentials in a timely manner, as required.

- Principle 4E: "Occupational therapy personnel shall maintain awareness of current laws and AOTA policies and Official Documents that apply to the profession of occupational therapy" (p. 5)

In the case of licensure and its legal ramifications, the understanding is that occupational therapy practitioners are ethically responsible for securing, reading, and understanding licensure rules and requirements for their state, territory, or district.

- Principle 4F: "Occupational therapy personnel shall inform employers, employees, colleagues, students, and researchers of applicable policies, laws, and Official Documents" (p. 5).

All occupational therapy practitioners are responsible for communicating to their employer, supervisor, director, and so forth up-to-date information regarding their licensure status. They are also responsible for maintaining up-to-date knowledge about changes and additions to their state licensure requirements.

- Principle 4H: "Occupational therapy personnel shall provide appropriate supervision in accordance with AOTA Official Documents and relevant laws, regulations, policies, procedures, standards, and guide- lines" (AOTA, 2015b, p. 5).

Occupational therapy practitioners who function in a leadership capacity are responsible for ensuring that occupational therapy professionals under their supervision have met all state requirements for licensure in the timely manner required by law.

- Principle 5: “Occupational therapy personnel shall provide comprehensive, accurate, and objective information when representing the profession” (Veracity; p. 6).
- Principle 5A: “Occupational therapy personnel shall represent their credentials, qualifications, education, experience, training, roles, duties, competence, contributions, and findings accurately in all forms of communication” (p. 6).

Any individual declaring himself or herself an occupational therapy practitioner and providing services to clients in that regard is required by the laws of his or her state, territory, or district and by AOTA to be credentialed according to the board regulations in his or her geographic area. This assures recipients of occupational therapy services that they are receiving care from qualified individuals.

Three of the Core Values discussed in the Code reflect the commitment and responsibility of occupational therapy practitioners to maintain up-to-date practice credentials:

- Justice—The concept of justice is most relevant, as it requires the practitioner to abide by laws and standards established by governing bodies: “Occupational therapy practitioners, educators, and researchers relate in a respectful, fair, and impartial manner to individuals and groups with whom they interact. They should also respect the applicable laws and standards related to their area of practice” (AOTA, 2015b, p. 5). It is the responsibility of the occupational therapist and occupational therapy assistant to ensure that they are informed about regulatory requirements in their state, territory, or district to provide services they identify as occupational therapy.
- Veracity—The value of veracity requires that “in all situations, occupational therapy personnel must provide accurate information, in oral, written, and electronic forms” (p. 2). Furthermore, practitioners show veracity by being accountable, honest, and authentic in both attitude and action. Occupational therapists and occupational therapy assistants should be accountable by acquiring their initial license and renewing it thereafter as required by their regulatory board. Practitioners are responsible for providing information to employers regarding their licensure status.
- Prudence—The concept of prudence means that occupational therapy personnel “use

their clinical and ethical reasoning skills, sound judgment, and reflection to make decisions in professional and volunteer roles” (p. 2).

Although regulatory boards may provide renewal information to practitioners, it is the sole responsibility of the professional to be self-disciplined in securing and maintaining the credentials required by his or her state, territory, or district.

When a credentialing violation has occurred, the EC applies the *Enforcement Procedures for the Occupational Therapy Code of Ethics* (AOTA, 2015a) as a disciplinary and protective measure on the basis of a range of circumstances. AOTA fully supports the legal and practice intent of credentialing out of concern for consumer and practitioner protection and enforces the Code in an effort to maintain the integrity of the profession. The following are examples of disciplinary actions that may be applied to cases involving the practice of occupational therapy without the appropriate credentials:

**1.3.1 Reprimand**—A formal expression of disapproval of conduct communicated privately by letter from the EC Chairperson that is nondisclosable and non-communicative to other bodies (e.g., state regulatory boards [SRBs], National Board for Certification in Occupational Therapy [NBCOT]). Reprimand is not publicly reported.

**1.3.2 Censure**—A formal expression of disapproval that is publicly reported.

**1.3.3 Probation of Membership Subject to Terms**—Continued membership is conditional, depending on fulfillment of specified terms. Failure to meet terms will subject an Association member to any of the disciplinary actions or sanctions. Terms may include but are not limited to

- a. remedial activity, applicable to the violation, with proof of satisfactory completion, by a specific date; and
- b. the corrected behavior which is expected to be maintained.

**1.3.4 Suspension**—Removal of Association membership for a specified period of time. Suspension is publicly reported.

**1.3.5 Revocation**—Permanent denial of Association membership. Revocation is publicly reported. (AOTA, 2015a, p. 2)

## **CASE SCENARIO**

You are an occupational therapy practitioner with 15 years of experience. You have been married for slightly more than 2 years and have a 4-month-old baby. Your husband received a job transfer, and you have recently moved to a new state. Two months after relocating to your new state, you join the state occupational therapy association. Through the state association, you learn of a job opening; you apply and are hired. Although the state requires licensure, they provide you with a grace period of 3 months to get the process completed. You have worked in three other states, so you need to supply past licensure information from those states, as well as information about having successfully completed the National Certification Exam for occupational therapy practitioners.

You develop influenza and are very ill for 2 weeks. During this time, you are worried about your family and your new employment. Eventually you recover and return to work, with a great deal to catch up on, both at work and at home. Along the way, you forget about the licensure requirement. It is now 15 months later, and you receive a notice from the state board stating that you are facing disciplinary action as a result of practicing without a license. Your initial response is that you actually completed the licensure process. You search for the information but are unable to locate any paperwork to verify that you completed the licensure process.

Even though your circumstances were challenging, the overriding issue is that you violated the law and practiced without a license for a significant period of time. Because of the collaborative professional relationship among organizations, state licensing boards routinely communicate information regarding lapsed licenses to AOTA's EC. Given the aforementioned principles, disciplinary action from a variety of sources is probable. Regardless of your personal circumstances, the final determination will be influenced by the sum of information collected from all parties involved, including your supervisors at your place of employment.

## **CONCLUSION**

In many states, achieving regulatory status required extensive lobbying and legislative efforts. The collaborative effort between AOTA and state associations has been instrumental in assisting states to achieve this professional status. This widespread, successful effort legally ensures the quality of occupational therapy service for consumers and prevents illegal behavior on the part of individuals without professional training and certification in occupational therapy who call

themselves occupational therapists, thus helping to preserve the integrity of the profession. Occupational therapy practitioners are legally bound by state requirements and are ethically responsible for compliance with them. This *Reference Guide to the Occupational Therapy Code of Ethics* serves as a helpful resource to clarify the potential penalty for practicing as an unlicensed occupational therapy practitioner. An increased awareness and knowledge regarding the importance of state license renewal will protect occupational therapists, occupational therapy assistants, and students from unnecessary legal problems, work interruption, and professional and personal embarrassment.

## REFERENCES

- American Occupational Therapy Association. (2015a). Enforcement procedures for the Occupational Therapy Code of Ethics. *American Journal of Occupational Therapy*, 69(Suppl.3,) 3), 6913410012. <http://dx.doi.org/10.5014/ajot.2015.696S19>
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This chapter was previously published in the 2010 edition of this guide. It has been revised to reflect updated AOTA Official Documents and web sites, AOTA style, and additional resources.

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