

**KANSAS STATE BOARD  
OF  
HEALING ARTS**



**KANSAS  
STATUTES  
ANNOTATED**

**AND**

**KANSAS  
ADMINISTRATIVE  
REGULATIONS**

**Relating to the practice of**

**Occupational Therapy**

**January 2020**

**NOTE: The laws and regulations listed in this website booklet are not to be considered the official authority on the current law. While every effort has been made to ensure the accuracy and completeness of this information, for legal purposes the law should be obtained from the Kansas statute books and the regulations from the Kansas Secretary of State's Administrative Regulations.**

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**65-5401**  
**Chapter 65 – PUBLIC HEALTH**  
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**65-5401. Citation of act.** K.S.A. 65-5401 to 65-5417, inclusive, shall be known and may be cited as the occupational therapy practice act.

**History:** L. 1986, ch. 323, § 1.

**65-5402**  
**Chapter 65 – PUBLIC HEALTH**  
**Article 54 – OCCUPATIONAL THERAPY**

**65-5402. Definitions.** As used in K.S.A. 65-5401 to 65-5417, inclusive, and K.S.A. 65-5418 to 65-5420, inclusive, and amendments thereto:

(a) “Board” means the state board of healing arts.

(b) “Practice of occupational therapy” means the therapeutic use of purposeful and meaningful occupations (goal-directed activities) to evaluate and treat, pursuant to the referral, supervision, order or direction of a physician, a licensed podiatrist, a licensed dentist, a licensed physician assistant, or a licensed advanced practice registered nurse working pursuant to the order or direction of a person licensed to practice medicine and surgery, a licensed chiropractor, or a licensed optometrist, individuals who have a disease or disorder, impairment, activity limitation or participation restriction that interferes with their ability to function independently in daily life roles and to promote health and wellness. Occupational therapy intervention may include:

(1) Remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological or neurological cognitive processes;

(2) adaptation of tasks, process, or the environment or the teaching of compensatory techniques in order to enhance performance;

(3) disability prevention methods and techniques that facilitate the development or safe application of performance skills; and

(4) health promotion strategies and practices that enhance performance abilities.

(c) “Occupational therapy services” include, but are not limited to:

(1) Evaluating, developing, improving, sustaining, or restoring skills in activities of daily living (ADL), work or productive activities, including instrumental activities of daily living (IADL) and play and leisure activities;

(2) evaluating, developing, remediating, or restoring sensorimotor, cognitive or psychosocial components of performance;

(3) designing, fabricating, applying, or training in the use of assistive technology or orthotic devices and training in the use of prosthetic devices;

(4) adapting environments and processes, including the application of ergonomic principles, to enhance performance and safety in daily life roles;

(5) applying physical agent modalities as an adjunct to or in preparation for engagement in occupations;

(6) evaluating and providing intervention in collaboration with the client, family, caregiver or others;

(7) educating the client, family, caregiver or others in carrying out appropriate nonskilled interventions; and

(8) consulting with groups, programs, organizations or communities to provide population-based services.

(d) “Occupational therapist” means a person licensed to practice occupational therapy as defined in this act.

(e) “Occupational therapy assistant” means a person licensed to assist in the practice of occupational therapy under the supervision of an occupational therapist.

(f) “Person” means any individual, partnership, unincorporated organization or corporation.

(g) “Physician” means a person licensed to practice medicine and surgery.

(h) “Occupational therapy aide,” “occupational therapy tech” or “occupational therapy paraprofessional” means a person who provides supportive services to occupational therapists and occupational therapy assistants in accordance with K.S.A. 65-5419, and amendments thereto.

**History:** L. 1986, ch. 323, § 2; L.2002, ch. 203, § 4; L. 2005, ch. 117, § 2; L. 2011, ch. 114, § 58, Jan. 1, 2012.

### **65-5403**

#### **Chapter 65 – PUBLIC HEALTH**

#### **Article 54 – OCCUPATIONAL THERAPY**

**65-5403. Administration of act by state board of healing arts.** The board, in the manner hereinafter provided, shall administer the provisions of this act.

**History:** L. 1986, ch. 323, § 3.

### **65-5404**

#### **Chapter 65 – PUBLIC HEALTH**

#### **Article 54 – OCCUPATIONAL THERAPY**

**65-5404. Occupational therapist council established; appointment of members; compensation.**

(a) There is established an occupational therapist council to advise the board in carrying out the provisions of this act. The council shall consist of five members, all citizens and residents of the state of Kansas appointed as follows: One member shall be a physician appointed by the state board of healing arts; one member shall be the president of the state board of healing arts or a person designated by the president; and three members shall be occupational therapists appointed by the governor. The governor shall, insofar as possible, appoint persons from different geographical areas and persons who represent various types of occupational therapy treatment. If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term, if any. The Kansas occupational therapy association shall recommend the names of occupational therapists to the governor in a number equal to at least twice the positions or vacancies to be filled, and the governor may appoint members to fill the positions or vacancies from the submitted list. The terms of the members of the council appointed by the governor prior to the effective date of this act shall expire on July 1, 1988. Members of the council appointed by the governor on and after the effective date of this act shall be appointed for terms of three years and until their successors are appointed and qualified except that of the members first appointed

by the governor on or after the effective date of this act one shall be appointed for a term of one year, one shall be appointed for a term of two years and one shall be appointed for a term of three years, as designated by the governor. The member appointed by the state board of healing arts shall serve at the pleasure of the state board of healing arts. A member designated by the president of the state board of healing arts shall serve at the pleasure of the president.

(b) Members of the council attending meetings of the council, or attending a subcommittee meeting thereof authorized by the council, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223 and amendments thereto from the healing arts fee fund.

**History:** L. 1986, ch. 323, § 4; L. 1987, ch. 253, § 1; L. 1988, ch. 251, § 3.

## **65-5405**

### **Chapter 65 – PUBLIC HEALTH Article 54 – OCCUPATIONAL THERAPY**

**65-5405. Duties of board.** The board shall pass upon the qualifications of all applicants for examination and licensure, determine the applicants who successfully pass the examination, duly license such applicants and adopt rules and regulations as may be necessary to administer the provisions of this act. The board shall keep a record of all proceedings under this act and a roster of all individuals licensed under this act. Only an individual may be licensed under this act.

**History:** L. 1986, ch. 323, § 5; L. 2002, ch. 203, § 5.

## **65-5406**

### **Chapter 65 – PUBLIC HEALTH Article 54 – OCCUPATIONAL THERAPY**

#### **65-5406. Application for licensure; requirements.**

(a) An applicant applying for licensure as an occupational therapist or as an occupational therapy assistant shall file a written application on forms provided by the board, showing to the satisfaction of the board that the applicant meets the following requirements:

(1) Education: The applicant shall present evidence satisfactory to the board of having successfully completed the academic requirements of an educational program in occupational therapy recognized by the board.

(2) Experience: The applicant shall submit to the board evidence of having successfully completed a period of supervised field work at a minimum recognized by the board.

(3) Examination: The applicant shall pass an examination as provided for in K.S.A. 65-5407 and amendments thereto.

(4) Fees: The applicants shall pay to the board all applicable fees established under K.S.A. 65-5409 and amendments thereto.

(b) The board shall adopt rules and regulations establishing the criteria which an educational program in occupational therapy shall satisfy to be recognized by the board under paragraph (1) of subsection (a). The board may send a questionnaire developed by the board to any school or other entity conducting an educational program in occupational therapy for which the board does not have sufficient information to determine whether the program should be recognized by the board and whether the program meets the rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the program to be considered for recognition. The board may contract with

investigative agencies, commissions or consultants to assist the board in obtaining information about an educational program in occupational therapy. In entering such contracts the authority to recognize an educational program in occupational therapy shall remain solely with the board.

**History:** L. 1986, ch. 323, § 6; L. 1988, ch. 243, § 12; L. 2002, ch. 203, § 6.

#### **65-5407**

### **Chapter 65 – PUBLIC HEALTH Article 54 – OCCUPATIONAL THERAPY**

**65-5407. Examinations.** Each applicant for licensure under this act shall be examined by written examination required by the board to test the applicant's knowledge of the basic and clinical sciences relating to occupational therapy, and occupational therapy theory and practice, including the applicant's professional skills and judgment in the utilization of occupational therapy techniques and methods, and such other subjects as the board may deem useful to determine the applicant's fitness to practice. The board shall approve an examination for occupational therapy assistants and establish standards for acceptable performance.

**History:** L. 1986, ch. 323, § 7; L. 2002, ch. 203, § 7.

#### **65-5408**

### **Chapter 65 – PUBLIC HEALTH Article 54 – OCCUPATIONAL THERAPY**

**65-5408. Waiver of examination and other requirements; when waived; temporary license.**

(a) The board may waive the examination, education or experience requirements and grant licensure to any applicant who presents proof of current licensure or registration as an occupational therapist or occupational therapy assistant in another state, the District of Columbia or territory of the United States which requires standards for licensure or registration determined by the board to be equivalent to or exceed the requirements for licensure under this act.

(b) At the time of making an application under this section, the applicant shall pay to the board the application fee as required under K.S.A. 65-5409 and amendments thereto.

(c) The board may issue a temporary license to an applicant for licensure as an occupational therapist or as an occupational therapy assistant who applies for temporary licensure on a form provided by the board, who meets the requirements for licensure or who meets all the requirements for licensure except examination and who pays to the board the temporary license fee as required under K.S.A. 65-5409 and amendments thereto. Such temporary license shall expire one year from the date of issue or on the date that the board approves the application for licensure, whichever occurs first. No more than one such temporary license shall be permitted to any one person.

**History:** L. 1986, ch. 323, § 8; L. 1987, ch. 253, § 2; L. 1991, ch. 192, § 5; L. 1997, ch. 26, § 1; L. 2002, ch. 203, § 8.

#### **65-5409**

### **Chapter 65 – PUBLIC HEALTH Article 54 – OCCUPATIONAL THERAPY**

**65-5409. Fees.**

(a) The board shall charge and collect in advance fees provided for in this act as fixed by the board by rules and regulations, subject to the following limitations:

Application fee, not more than.....	\$80
Temporary license fee, not more than.....	40
License renewal fee, not more than.....	80
License late renewal fee, not more than.....	80
License reinstatement fee, not more than.....	80
Certified copy of license, not more than.....	40
Written verification of license, not more than.....	25

(b) The board shall charge and collect in advance fees for any examination administered by the board under the occupational therapy practice act as fixed by the board by rules and regulations in an amount equal to the cost to the board of the examination. If the examination is not administered by the board, the board may require that fees paid for any examination under the occupational therapy practice act be paid directly to the examination service by the person taking the examination.

**History:** L.1986, ch. 323, § 9; L. 1987, ch. 253, § 3; L. 1989, ch. 202, § 2; L. 1997, ch. 94, § 4; L. 2002, ch. 203, § 9.

**65-5410**

**Chapter 65 – PUBLIC HEALTH  
Article 54 – OCCUPATIONAL THERAPY**

**65-5410. Denial, revocation, limitation or suspension of license or refusal to renew license; unprofessional conduct; procedure; reinstatement; penalties.**

(a) The board may deny, refuse to renew, suspend, revoke or limit a license or the licensee may be publicly or privately censured where the licensee or applicant for licensure has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes:

- (1) Obtaining a license by means of fraud, misrepresentation or concealment of material facts;
- (2) being guilty of unprofessional conduct as defined by rules and regulations adopted by the board;
- (3) being convicted of a felony if the acts for which such person was convicted are found by the board to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of an occupational therapist or occupational therapy assistant;
- (4) violating any lawful order or rule and regulation of the board; and
- (5) violating any provision of this act.

(b) Such denial, refusal to renew, suspension, revocation or limitation of a license or public or private censure of a licensee may be ordered by the board after notice and hearing on the matter in accordance with the provisions of the Kansas administrative procedure act. Upon the end of the period of time established by the board for the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may hold a hearing to consider such reinstatement. An application for reinstatement of a revoked license shall be accompanied by the license renewal fee and the license reinstatement fee established under K.S.A. 65-5409, and amendments thereto.

(c) The board, in addition to any other penalty prescribed in subsection (a), may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for unprofessional conduct in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and for each subsequent violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

**History:** L. 1986, ch. 323, § 10; L. 2002, ch. 203, § 10; L. 2004, ch. 117, § 19.

#### **65-5411**

### **Chapter 65 – PUBLIC HEALTH Article 54 – OCCUPATIONAL THERAPY**

**65-5411. Foreign trained occupational therapists and occupational therapy assistants; requirements.** Foreign trained occupational therapists and occupational therapy assistants shall satisfy the examination requirements of K.S.A. 65-5406. The board shall require foreign trained applicants to furnish proof of completion of educational and supervised field work requirements, substantially equal to or greater than those contained in K.S.A. 65-5406 prior to taking the examination.

**History:** L. 1986, ch. 323, § 11.

#### **65-5412**

### **Chapter 65 – PUBLIC HEALTH Article 54 – OCCUPATIONAL THERAPY**

#### **65-5412. Expiration of license; renewal; suspension; reinstatement; fees.**

(a) Licenses issued under this act shall expire on the date of expiration established by rules and regulations of the board unless renewed in the manner prescribed by the board. The request for renewal shall be accompanied by the license renewal fee established pursuant to K.S.A. 65-5409, and amendments thereto. The board may establish additional requirements for licensure renewal which provide evidence of continued competency.

(b) At least 30 days before the expiration of a licensee's license, the board shall notify the licensee of the expiration by mail addressed to the licensee's last mailing address as noted upon the office records. If the licensee fails to pay the renewal fee by the date of expiration, the licensee shall be given a second notice that the license has expired and the license may be renewed only if the renewal fee and the late renewal fee are received by the board within the thirty-day period following the date of expiration and that, if both fees are not received within the thirty-day period, the license shall be deemed canceled by operation of law without further proceedings for failure to renew and shall be reissued only after the license has been reinstated under subsection (c).

(c) Any license canceled for failure to renew as herein provided may be reinstated upon recommendation of the board and upon payment of the renewal fee and the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable continuing education requirements established by the board. The board shall adopt rules and regulations establishing

appropriate continuing education requirements for reinstatement of licenses canceled for failure to renew.

(d) A person whose license is suspended shall not engage in any conduct or activity in violation of the order or judgment by which the license was suspended.

**History:** L. 1986, ch. 323, § 12; L. 2002, ch. 203, § 11; L. 2004, ch. 117, § 20.

#### **65-5413**

### **Chapter 65 – PUBLIC HEALTH Article 54 – OCCUPATIONAL THERAPY**

**65-5413. Moneys received by board; disposition; healing arts fee fund.** The board shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Ten percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person designated by the president of the board.

**History:** L. 1986, ch. 323, § 13; L. 2001, ch. 5, § 262; L. 2011, ch. 53, § 35, July 1, 2011.

#### **65-5414**

### **Chapter 65 – PUBLIC HEALTH Article 54 – OCCUPATIONAL THERAPY**

**65-5414. Representation as occupational therapist or occupational therapy assistant; prohibitions; misdemeanor.**

(a) It shall be unlawful for any person who is not licensed under this act as an occupational therapist or an occupational therapy assistant or whose license has been suspended or revoked to use, in connection with such person's name or place of business, the words "occupational therapist," "licensed occupational therapist," "occupational therapist licensed," "occupational therapy assistant," "licensed occupational therapy assistant," or the letters, "O.T.," "L.O.T.," "O.T.L.," "O.T.A." or "L.O.T.A." or any other words, letters, abbreviations or insignia indicating or implying that such person is an occupational therapist or an occupational therapy assistant or who in any way, orally, in writing, in print or by sign, directly or by implication, represents oneself as an occupational therapist or an occupational therapy assistant.

(b) Any violation of this section shall constitute a class C misdemeanor.

**History:** L. 1986, ch. 323, § 14; L. 2002, ch. 203, § 12.

#### **65-5415**

### **Chapter 65 – PUBLIC HEALTH Article 54 – OCCUPATIONAL THERAPY**

**65-5415. Injunction.** When it appears to the board that any person is violating any of the provisions of this act, the board may bring an action in a court of competent jurisdiction for an

injunction against such violation without regard to whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.

**History:** L. 1986, ch. 323, § 15.

#### **65-5416**

### **Chapter 65 – PUBLIC HEALTH**

## **Article 54 – OCCUPATIONAL THERAPY**

**65-5416. State agency adjudicative proceedings and judicial review; conduct.** All state agency adjudicative proceedings under K.S.A. 65-5401 to 65-5417, inclusive, shall be conducted in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act.

**History:** L. 1986, ch. 323, § 16; L. 2010, ch. 17, § 164, eff. July 1, 2010.

#### **65-5417**

### **Chapter 65 – PUBLIC HEALTH**

## **Article 54 – OCCUPATIONAL THERAPY**

**65-5417. Invalidity of part.** If any section of this act, or any part thereof, is adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder or any other section or part thereof.

**History:** Laws 1986, ch. 323, § 17.

#### **65-5418**

### **Chapter 65 – PUBLIC HEALTH**

## **Article 54 – OCCUPATIONAL THERAPY**

**65-5418. Construction of occupational therapy practice act and practice of occupational therapy.**

(a) Nothing in the occupational therapy practice act is intended to limit, preclude or otherwise interfere with the practices of other health care providers formally trained and licensed, registered, credentialed or certified by appropriate agencies of the state of Kansas.

(b) The practice of occupational therapy shall not be construed to include the following:

(1) Persons rendering assistance in the case of an emergency;

(2) members of any church practicing their religious tenets;

(3) persons whose services are performed pursuant to the delegation of and under the supervision of an occupational therapist who is licensed under this act;

(4) any person employed as an occupational therapist or occupational therapy assistant by the government of the United States or any agency thereof, if such person practices occupational therapy solely under the direction or control of the organization by which such person is employed;

(5) licensees under the healing arts act when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to a delegation authorized under subsection (g) of K.S.A. 65-2872, and amendments thereto;

(6) dentists practicing their professions, when licensed and practicing in accordance with the provisions of law;

(7) nurses practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensed nurse under subsection (m) of K.S.A. 65-1124, and amendments thereto;

(8) health care providers who have been formally trained and are practicing in accordance with the training or have received specific training in one or more functions included in the occupational therapy practice act pursuant to established educational protocols, or both;

(9) any person pursuing a supervised course of study leading to a degree or certificate in occupational therapy at an accredited or approved educational program, if the person is designated by the title which clearly indicates such person's status as a student or trainee;

(10) any person fulfilling the supervised fieldwork experience requirements as part of the experience necessary to meet the requirement of the occupational therapy practice act;

(11) self-care by a patient or gratuitous care by a friend or family member who does not represent or hold oneself out to the public to be an occupational therapist or an occupational therapy assistant;

(12) optometrists practicing their profession when licensed and practicing in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(13) podiatrists practicing their profession when licensed and practicing in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(14) physical therapists practicing their profession when licensed and practicing in accordance with K.S.A. 65-2901 *et seq.*, and amendments thereto;

(15) physician assistants practicing their profession when licensed and practicing in accordance with the physician assistant licensure act;

(16) athletic trainers practicing their profession when licensed and practicing in accordance with the athletic trainers licensure act;

(17) manufacturers of prosthetic devices;

(18) any person performing occupational therapy services, if these services are performed for no more than 45 days in a calendar year in association with an occupational therapist licensed under the occupational therapy practice act so long as (A) the person is registered or licensed under the laws of another state which has licensure requirements at least as stringent as the licensure requirements of this act, or (B) the person meets the requirements for certification as an occupational therapist registered (OTR) or a certified occupational therapy assistant (COTA) established by the national board for certification in occupational therapy (NBCOT).

(c) Any patient monitoring, assessment or other procedures designed to evaluate the effectiveness of prescribed occupational therapy must be performed by or pursuant to the delegation of a licensed occupational therapist or other health care provider.

(d) Education related therapy services provided by an occupational therapist to school systems or consultation regarding prevention, ergonomics and wellness within the occupational therapy scope of practice shall not require a referral, supervision, order or direction of a physician, a licensed podiatrist, a licensed dentist or a licensed optometrist. However, when in the course of providing such services an occupational therapist reasonably believes that an individual may have an underlying injury, illness, disease, disorder or impairment, the occupational therapist shall refer the individual to a physician, a licensed podiatrist, a licensed dentist or a licensed optometrist, as appropriate.

(e) Nothing in the occupational therapy practice act shall be construed to permit the practice of medicine and surgery. No statute granting authority to licensees of the state board of healing arts shall be construed to confer authority upon occupational therapists to engage in any activity not conferred by the occupational therapy practice act.

(f) This section shall be part of and supplemental to the occupational therapy practice act.

**History:** L. 2002, ch. 203, § 13; L. 2003, ch. 128, § 27; L. 2004, ch. 24, § 13.

#### **65-5419**

### **Chapter 65 – PUBLIC HEALTH**

## **Article 54 – OCCUPATIONAL THERAPY**

#### **65-5419. Supervision of persons providing supportive services; supervision requirements.**

(a) An occupational therapy aide, occupational therapy tech or occupational therapy paraprofessional shall function under the guidance and responsibility of the licensed occupational therapist and may be supervised by the occupational therapist or an occupational therapy assistant for specifically selected routine tasks for which the occupational therapy aide, occupational therapy tech or occupational therapy paraprofessional has been trained and has demonstrated competence. The occupational therapy aide, occupational therapy tech or occupational therapy paraprofessional shall comply with supervision requirements developed by the board by rules and regulations which are consistent with prevailing professional standards.

(b) This section shall be part of and supplemental to the occupational therapy practice act.

(c) The provisions of this section shall take effect on and after April 1, 2003.

**History:** L. 2002, ch. 203, § 14.

#### **65-5420**

### **Chapter 65 – PUBLIC HEALTH**

## **Article 54 – OCCUPATIONAL THERAPY**

#### **65-5420. Registration deemed to be licensure on effective day of act.**

(a) Any person holding a valid registration as an occupational therapist immediately prior to the effective date of this act which has been issued by the state board of healing arts shall be deemed to be a licensed occupational therapist and shall be subject to the provisions of article 54 of chapter 65 of the Kansas Statutes Annotated.

(b) Any person holding a valid registration as an occupational therapy assistant immediately prior to the effective date of this act which has been issued by the state board of healing arts shall be deemed to be a licensed occupational therapy assistant and shall be subject to the provisions of article 54 of chapter 65 of the Kansas Statutes Annotated.

(c) This section shall be part of and supplemental to the occupational therapy practice act.

(d) The provisions of this section shall take effect on and after April 1, 2003.

**History:** L. 2002, ch. 203, § 15.

**65-5421**  
**Chapter 65 – PUBLIC HEALTH**  
**Article 54 – OCCUPATIONAL THERAPY**

**65-5421. Licensed occupational therapist ownership limitations in professional corporations.**

(a) The state board of healing arts shall adopt rules and regulations to limit the percentage of ownership when a licensed occupational therapist forms a professional corporation pursuant to K.S.A. 17-2706 *et seq.*, and amendments thereto, in combination with other professional services.

(b) This section shall be part of and supplemental to the occupational therapy practice act.

**History:** L. 2004, ch. 143, § 106.

## Article 54. – OCCUPATIONAL THERAPY

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### **100-54-1. Application.**

(a) Each applicant for licensure as an occupational therapist or occupational therapy assistant shall submit the application on a form provided by the board. The form shall include the following information in legible writing:

- (1) The applicant's full name;
- (2) the applicant's social security number, nondriver identification number, or individual tax identification number if the applicant is advised that providing a social security number is voluntary pursuant to K.S.A. 74-139 and 74-148, and amendments thereto, and that if the social security number is provided, the agency may provide this number to the Kansas department of social and rehabilitation services for child support enforcement purposes and to the Kansas department of revenue's director of taxation;
- (3) the applicant's mailing address. If the applicant's mailing address is different from the applicant's residential address, the applicant shall also provide the residential address;
- (4) the applicant's daytime telephone number;
- (5) the applicant's date and place of birth;
- (6) the names of all educational programs recognized under K.A.R. 100-54-2 that the applicant attended, including the program from which the applicant graduated, the degree awarded to the applicant, and the date of graduation;
- (7) information regarding licenses, registrations, or certifications issued to the applicant to practice any healthcare profession;
- (8) information regarding any prior acts that could constitute grounds for denial of the application, as specified in K.S.A. 65-5410 and amendments thereto;
- (9) a notarized release authorizing the board to receive any relevant information, files, or records requested by the board in connection with the application; and
- (10) certification that the applicant has completed an occupational therapy program or occupational therapy assistant program from a postsecondary school recognized under K.A.R. 100-54-2.

(b) Each applicant shall submit the following with the application:

- (1) The fee required by K.A.R. 100-54-4;

(2) an official transcript from an educational program recognized by the board under K.A.R. 100-54-2 that specifies the degree awarded to the applicant;

(3) a verification on a form provided by the board of each license, registration, or certification issued to the applicant by any state or the District of Columbia relating to any healthcare profession;

(4) a current photograph of the applicant taken within 90 days of the date the application is received by the board; and

(5) the results of a written examination recognized and approved by the board under K.A.R. 100-54-3, which shall be provided directly to the board from the testing entity.

(c) The applicant shall sign the application under oath and have the application notarized.

(d) The occupational therapist council shall consider every application from persons who have been neither engaged in an educational program recognized by the board nor engaged in the practice of occupational therapy during the five years preceding the date of the application. The council shall then make its recommendation to the board.

(Authorized by K.S.A. 65-5405; implementing K.S.A. 65-5404, K.S.A. 65-5406, and K.S.A. 2008 Supp. 65-5410; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999; amended Sept. 23, 2005; amended Nov. 20, 2009.)

#### **100-54-2. Education requirements.**

(a) An educational program for licensure as an occupational therapist shall be recognized by the board if the program meets the “standards for an accredited educational program for the occupational therapist,” adopted December 1998 by the accreditation council for occupational therapy education and hereby adopted by reference.

(b) An educational program for licensure as an occupational therapy assistant shall be recognized by the board if the program meets the “standards for an accredited educational program for the occupational therapy assistant,” adopted December 1998 by the accreditation council for occupational therapy education and hereby adopted by reference.

(Authorized by K.S.A. 65-5405; implementing K.S.A. 65-5406; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999; amended Nov. 21, 2003.)

#### **100-54-3. Examinations.**

(a) Each applicant for licensure as an occupational therapist or occupational therapy assistant shall submit proof of having passed a nationally administered, standardized examination. This examination shall be one that is approved by the board and consists of written questions from the following content areas of occupational therapy:

(1) Human development and performance;

(2) principles and strategies in the identification and evaluation of strengths and needs;

(3) principles and strategies in intervention and treatment planning;

(4) principles and strategies in intervention;

(5) the nature of the occupation and occupational performance;

(6) service management; and

(7) the individual's responsibilities as a professional.

(b) In order to qualify as board-approved, the entry-level certification examination for an occupational therapist administered by the national board for certification in occupational therapy, inc. shall meet the standards for an examination established by the board in subsection (a).

(c) In order to qualify as board-approved, the entry-level certification examination for an occupational therapy assistant administered by the national board for certification in occupational therapy, inc. shall meet the standards for an examination established by the board in subsection (a).

(d) To qualify for a license, each applicant for a license as an occupational therapist and occupational therapy assistant shall obtain a minimum criterion-scaled score of 450 on the required examination.

(Authorized by K.S.A. 65-5405; implementing K.S.A. 65-5407; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999; amended Nov. 21, 2003.)

**100-54-4. Fees.** The following fees shall be collected by the board:

- (a) Application for license.....\$80.00
- (b) License renewal
  - (1) Paper renewal.....\$75.00
  - (2) On-line renewal.....\$72.00
- (c) Late license renewal:
  - (1) Paper late renewal.....\$80.00
  - (2) On-line late renewal.....\$77.00
- (d) License reinstatement.....\$80.00
- (e) Certified copy of license.....\$15.00
- (f) Temporary license.....\$25.00

(Authorized by K.S.A. 65-5405; implementing K.S.A. 65-5409; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended, T-100-10-17-89, Oct. 17, 1989; amended Feb. 5, 1990; amended May 1, 1998; amended Sept. 29, 2000; amended Jan. 10, 2003; amended Nov. 21, 2003; amended, T-100-3-19-04, March 19, 2004; amended July 23, 2004; amended March 7, 2008.)

**100-54-5. Unprofessional conduct; defined.** “Unprofessional conduct” means any of the following:

- (a) Using fraudulent or false advertisements;
- (b) engaging in occupational therapy under a false or assumed name, or by impersonating another person licensed by the board as an occupational therapist or occupational therapy assistant;
- (c) practicing occupational therapy without reasonable skill and safety because of illness; disability, excessive use of alcohol or drugs; illegal use of controlled substances, chemicals, or any other type of material; or as a result of any mental or physical condition;
- (d) having an occupational therapy license, registration, or certification revoked, suspended, or limited, or an application for any of these denied by the proper regulatory authority of another state, territory, District of Columbia, or other country;
- (e) cheating or attempting to subvert the validity of the examination required for licensure;
- (f) having been found either not guilty by reason of insanity or incompetent to stand trial by a court of competent jurisdiction;
- (g) failing to furnish the board, its investigators, or its representatives any information legally requested by the board;
- (h) being sanctioned or disciplined by a peer review committee or medical care facility for acts or conduct that would constitute grounds for denial, refusal to renew, suspension, or revocation of a license under K.S.A. 65-5410 and amendments thereto;
- (i) surrendering a license, registration, or certification to practice occupational therapy in another state while disciplinary proceedings are pending for acts or conduct that would constitute

grounds for denial, refusal to renew, suspension, or revocation of a registration under K.S.A. 65-5410 and amendments thereto;

(j) being professionally incompetent, as defined in K.S.A. 65-2837 and amendments thereto;

(k) representing to a patient that a manifestly incurable disease, condition, or injury can be permanently cured;

(l) providing occupational therapy to a patient without the consent of the patient or the patient's legal representative;

(m) willfully betraying confidential information;

(n) using any advertisement that is false, misleading, or deceptive in a material respect;

(o) committing conduct likely to deceive, defraud, or harm the public;

(p) making a false or misleading statement regarding the licensee's skill, which shall include providing any form of occupational therapy without appropriate education, training, and knowledge in the specific therapeutic methods used;

(q) committing any act of sexual, psychological, or physical abuse, or exploitation;

(r) obtaining any fee by fraud, deceit, or misrepresentation;

(s) charging an excessive fee for services rendered;

(t) failing to keep written records justifying the course of treatment of the patient; or

(u) delegating occupational therapy to a person who the licensee knows or has reason to know is not qualified by training or experience to perform it.

(Authorized by K.S.A. 65-5405 and 65-5410; implementing K.S.A. 65-5410; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999; amended Nov. 21, 2003.)

#### **100-54-6. License; temporary license; renewal; late renewal.**

(a) Each license issued by the board shall expire on March 31 of each year.

(b) A temporary license shall be issued by the board to each applicant for licensure who meets the requirements for licensure or the requirements for licensure except examination, pays the temporary license fee, and has not been guilty of unprofessional conduct.

(c) The license specified in subsection (a) may be renewed annually. Each request for renewal shall be submitted on a form provided by the board and shall be accompanied by the following:

(1) The prescribed license renewal fee; and

(2) proof of satisfactory completion of a program of continuing education as required by the board.

(d) Each license not renewed by March 31 shall expire. Any expired license may be renewed within 30 days of expiration, upon request of the licensee. Each request for late renewal shall be submitted on the same form as that for a request for renewal and shall be accompanied by the following:

(1) The prescribed license renewal fee and the late renewal fee; and

(2) proof of satisfactory completion of a program of continuing education as required by the board.

Credits

(Authorized by K.S.A. 65-5405; implementing K.S.A. 2004 Supp. 65-5412; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Dec. 27, 1993; amended Jan. 15, 1999; amended Nov. 21, 2003; amended Sept. 23, 2005.)

**100-54-7. Continuing education; license renewal.**

(a)(1) Each licensee shall submit evidence of completing at least 40 contact hours of continuing education during the preceding 24 months. Evidence of this attainment shall be submitted before or with the application for renewal in each odd-numbered year.

(2) No evidence of continuing education shall be required for license renewal in even-numbered years.

(b) A licensee initially licensed within one year of a renewal date when evidence of continuing education must be submitted shall not be required to submit evidence of satisfactory completion of a program of continuing education required by paragraph (a)(1) for that first renewal period. Each licensee who was initially licensed or whose license has been reinstated for more than one year but less than two years from a renewal date when continuing education required by paragraph (a)(1) must be submitted shall be required to submit evidence of satisfactory completion of at least 20 contact hours of continuing education.

(c) Any licensee who cannot meet the requirements of paragraph (a)(1) or subsection (b) may request an extension from the board. The request shall include a plan for completion of the continuing education requirements within the requested extension period. An extension of not more than six months may be granted by the board for good cause shown by a substantiated medical condition, natural disaster, death of a spouse or an immediate family member, or any other compelling reason that in the judgment of the board renders the licensee incapable of meeting the requirements of paragraph (a)(1) or subsection (b).

(d) A contact hour shall consist of 60 minutes of instruction, unless otherwise specified in this regulation.

(e) The content of the continuing education classes or literature shall be related to the field of occupational therapy or similar areas.

(f) Each licensee shall acquire continuing education from the classes of education experiences defined in subsection (g). The licensee shall acquire at least 30 contact hours from one or more of the following: class I, class IV, class V, and class VI.

(g) Continuing education experiences shall be classified as follows:

(1) Class I: attendance at or participation in an education presentation. Class I continuing education experiences shall include the following types of education offerings:

(A) Lectures. A “lecture” means a discourse given for instruction before an audience or through a teleconference.

(B) Panels. A “panel” means the presentation of a number of views by several professional individuals on a given subject, with none of the views considered a final solution.

(C) Workshops. A “workshop” means a series of meetings designed for intensive study, work, or discussion in a specific field of interest.

(D) Seminars. A “seminar” means directed advanced study or discussion in a specific field of interest.

(E) Symposiums. A “symposium” means a conference of more than a single session organized for the purpose of discussing a specific subject from various viewpoints and presented by various speakers.

(F) College or university courses. Ten contact hours shall be given for each college credit hour with a grade of at least C or a “pass” in a pass/fail course.

(G) Other courses. An “other course” means a home study, correspondence, or internet course for which the provider of the activity evaluates the licensee's knowledge of the subject

matter presented in the continuing education activity. A maximum of 20 contact hours may be acquired from other courses.

(2) Class II: in-service training. "In-service training" means training that is given to employees during the course of employment. A maximum of four contact hours may be given for attending an in-service training session. A maximum of four contact hours may be given for instructing an in-service training session, but no additional hours shall be acquired for attending that particular in-service training session or for any subsequent instruction on the same subject matter. A maximum of eight contact hours may be acquired from class II.

(3) Class III: professional reading. "Professional reading" means reading professional literature, whether printed or provided by audiotapes, videotapes, or electronic media. A maximum of two contact hours may be acquired from class III.

(4) Class IV: professional publication. The maximum number of contact hours that may be given for professional publication shall be as follows:

(A) 30 hours for publication of a book or original paper; and

(B) 15 hours for a review paper, case report, abstract, or book review.

(5) Class V: instructor preparation of class I programs. Any licensee who presents a class I continuing education program or its equivalent may receive three class V contact hours for each hour of presentation. No credit shall be granted for any subsequent presentations on the same subject matter. A maximum of 30 contact hours may be acquired from class V.

(6) Class VI: fieldwork supervision of level II students. One contact hour per week may be given for supervising a level II student's full-time fieldwork. "Full-time field-work" shall mean at least 35 hours per week. A maximum of 24 contact hours may be acquired from class VI.

(h) Each licensee shall submit documented evidence of attendance at, participation in, or presentation to class I and class II continuing education activities. Each licensee shall submit personal verification for class III activities. Copies of publications shall be submitted for verification of class IV activities. Verification of class VI fieldwork supervision shall be submitted by the licensee's employer.

(i) Instructional staff shall be competent in the subject matter and in the methodology of instruction and learning processes as evidenced by experience, education, or publication. (Authorized by K.S.A. 65-5405; implementing K.S.A. 2013 Supp. 65-5412; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Feb. 14, 1997; amended Nov. 21, 2003; amended July 6, 2007; amended May 13, 2016.)

#### **100-54-8. Continuing education; expired, canceled, and revoked licenses.**

(a) If the license has expired but has not been canceled, no continuing education shall be required in addition to the continuing education that would have been necessary if the license had been renewed before its expiration.

(b) Each applicant who wishes to reinstate a license that has been canceled shall submit proof of continuing education as follows:

(1) If the applicant has continuously held an active license in another state or the District of Columbia since the date on which the Kansas license was canceled or the applicant currently holds a license that has been active for at least two years in any state that has licensing and continuing education requirements at least as strict as those of Kansas, the applicant shall submit proof of the applicant's current license, registration, or certification from that jurisdiction.

(2) If the time since the license was canceled has been one year or less, no continuing education in addition to the continuing education that would have been necessary if the license had been renewed before cancellation shall be required.

(3) If the time since the license was canceled has been more than one year but less than two years, the applicant shall complete a minimum of 20 contact hours.

(4) If the time since the license was canceled has been at least two years but less than three years, the applicant shall complete 40 contact hours.

(5) If the time since the license was canceled has been at least three years or the applicant has not held an active license in another state that has licensing and continuing education requirements at least as strict as those of Kansas, the applicant shall complete an educational program related to continued competency based on a written recommendation by the occupational therapist council and approved by the board.

(c) An occupational therapist or an occupational therapy assistant whose license has been reinstated within one year of a renewal date when evidence of continuing education must be submitted shall not be required to submit evidence of satisfactory completion of a program of continuing education for that first renewal period. Each licensee whose license has been reinstated for more than one year but less than two years from a renewal date when continuing education must be submitted shall be required to submit evidence of satisfactory completion of at least 20 contact hours of continuing education.

(d) Each applicant seeking reinstatement of a revoked license shall be required to successfully complete a program approved by the board.

(Authorized by K.S.A. 65-5405; implementing K.S.A. 2008 Supp. 65-5412; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999; amended Nov. 21, 2003; amended Sept. 23, 2005; amended July 6, 2007; amended Nov. 20, 2009.)

**100-54-9. Occupational therapy assistants; information to board.** Before an occupational therapist allows an occupational therapy assistant to work under the occupational therapist's direction, the occupational therapist shall inform the board of the following:

(a) The name of each occupational therapy assistant who intends to work under the direction of that occupational therapist;

(b) the occupational therapy assistant's place of employment; and

(c) the address of the employer.

(Authorized by K.S.A. 65-5405 and implementing K.S.A. 65-5406; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999.)

**100-54-10. Delegation and supervision.**

(a) Occupational therapy procedures delegated by an occupational therapist or occupational therapy assistant to an occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional shall be performed under the direct, on-site supervision of a licensed occupational therapist or occupational therapy assistant.

(b)(1) "Occupational therapy technician" as used in this regulation, shall mean "occupational therapy tech" pursuant to K.S.A. 65-5419 and amendments thereto.

(2) An occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional shall mean an individual who provides support services to the occupational therapist and occupational therapy assistant.

(c) A task delegated to an occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional by an occupational therapist or occupational therapy assistant shall not exceed the level of training, knowledge, skill, and competence of the individual being supervised. The occupational therapist or occupational therapy assistant shall be responsible for the acts or actions performed by the occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional functioning in a practice setting.

(d) Each occupational therapist and each occupational therapy assistant shall delegate only specific tasks to an occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional that meet all of the following conditions:

(1) The tasks are routine in nature.

(2) The treatment outcome is predictable.

(3) The task does not require judgment, interpretation, or adaptation by the occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional.

(e) The tasks that an occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional may perform shall include the following specifically selected routine tasks:

(1) Clerical, secretarial, or administrative duties;

(2) transportation of patients, clients, or students;

(3) preparation or setup of the treatment equipment and work area;

(4) attending to a patient's, client's, or student's needs during treatment; and

(5) maintenance or restorative services to patients, clients, or students.

(f) Any occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional may assist in the delivery of occupational therapy services. However, no occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional shall provide independent treatment or use any title or description implying that the occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional is a provider of occupational therapy services.

(g) An occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional shall not perform any of the following:

(1) Interpret referrals or prescriptions for occupational therapy services;

(2) evaluate treatment procedures;

(3) develop, plan, adjust, or modify treatment procedures;

(4) act on behalf of the occupational therapist or occupational therapy assistant relating to direct patient care that requires judgment or decision making; and

(5) act independently or without the supervision of an occupational therapist or occupational therapy assistant.

(Authorized by K.S.A. 65-5405; implementing K.S.A. 65-5419; effective Sept. 23, 2005.)

#### **100-54-11. Occupational therapists; ownership of corporation or company.**

(a) Licensed occupational therapists shall not hold more than 49 percent of the total number of shares issued by a professional corporation that is organized to render the professional services of a physician, surgeon or doctor of medicine, osteopathic physician or surgeon, podiatrist, dentist, or optometrist.

(b) Licensed occupational therapists shall not contribute more than 49 percent of the total amount of capital to a professional liability company that is organized to render the professional

services of a physician, surgeon or doctor of medicine, osteopathic physician or surgeon, podiatrist, dentist, or optometrist.

(c) This regulation shall be effective on and after January 1, 2006.

(Authorized by K.S.A. 17-2716 and K.S.A. 2004 Supp. 65-5421; implementing K.S.A. 2004 Supp. 65-5421; effective Jan. 1, 2006.)

### **100-54-12. Supervision of occupational therapy assistants.**

(a) For the purposes of this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) "Full-time" means employed for 30 or more hours per week.

(2) "Supervision" means oversight of an occupational therapy assistant by a licensed occupational therapist that includes initial direction and periodic review of service delivery and the provision of relevant instruction and training.

(b) Supervision shall be considered adequate if the occupational therapist and occupational therapy assistant have on-site contact at least monthly and interim contact occurring as needed by other means, including telephone, electronic mail, text messaging, and written communication.

(c) Each occupational therapist who supervises an occupational therapy assistant shall meet the following requirements:

(1) Be licensed in Kansas;

(2) be actively engaged in the practice of occupational therapy in Kansas;

(3) be responsible for the services and tasks performed by the occupational therapy assistant under the supervision of the occupational therapist;

(4) be responsible for any tasks that the supervised occupational therapy assistant delegates to an occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional;

(5) delegate only those services for which the occupational therapist has reasonable knowledge that the occupational therapy assistant has the knowledge, experience, training, and skill to perform;

(6) document in the patient's chart any direction or review of occupational therapy services provided under supervision by the occupational therapy assistant; and

(7) report to the board any knowledge that the occupational therapy assistant has committed any act specified in K.S.A. 65-5410, and amendments thereto. The occupational therapist shall report this information to the board within 10 days of receiving notice of the information.

(d) An occupational therapist shall not supervise more than the combined equivalent of four full-time occupational therapy assistants. This combination shall not exceed a total of eight occupational therapy assistants.

(e) Each occupational therapist's decision to delegate components of occupational therapy services under this regulation to an occupational therapy assistant shall be based on that occupational therapist's education, expertise, and professional judgment.

(f) An occupational therapy assistant shall not initiate therapy for any patient or client before the supervising occupational therapist's evaluation of the patient or client.

(g) An occupational therapy assistant shall not perform any of the following services for a patient or client:

(1) Performing and documenting an initial evaluation;

(2) developing or modifying the treatment plan; or

(3) developing a plan of discharge from treatment.

(h) Any occupational therapy assistant, under supervision, may perform the following services for a patient or client:

- (1) Collecting initial patient data through screening and interviewing;
- (2) assessing initial activities of daily living by administering standardized assessments;
- (3) performing a chart review;
- (4) implementing and coordinating occupational therapy interventions;
- (5) providing direct services that follow a documented routine and accepted protocol;
- (6) grading and adapting activities, media, or the environment according to the needs of the patient or client;
- (7) contributing to the reassessment process; and
- (8) contributing to the discontinuation of intervention, as directed by the occupational therapist, by implementing a discharge plan and providing necessary client discharge resources.

(i) Failure by any occupational therapist or occupational therapy assistant to meet the applicable requirements of this regulation shall constitute evidence of unprofessional conduct.

(Authorized by K.S.A. 65-5405; implementing K.S.A. 2015 Supp. 65-5402 and 65-5410; effective May 13, 2016.)