

RULES



Department of Professional and Financial Regulation

OCCUPATIONAL THERAPY PRACTICE

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Effective Date: November 13, 2012

SUMMARY: This chapter provides for the issuance of advisory rulings by the Board.

1. Request and Consideration

Upon written request of any interested person, the board may issue an advisory ruling pursuant to 5 M.R.S.A. §9001 with respect to the applicability of any statute or rule it administers. Requests for advisory rulings must set forth in detail all facts pertinent to the question. The board may decline to issue an advisory ruling if the question is hypothetical, if there is insufficient information upon which to base a ruling, or for any other reason the board deems proper.

2. Response

The board shall acknowledge receipt of a request for an advisory ruling within 15 days after receipt. The board shall respond to every written request for an advisory ruling within 90 days of its receipt of the request, indicating whether or not a ruling will be issued by the board.

STATUTORY AUTHORITY: 5 MRSA §§ 8051, 9001(4)

EFFECTIVE DATE:

February 7, 1989 - as "Continuing Professional Education Requirements for Renewal of Licensure in Occupational Therapy"

EFFECTIVE DATE (ELECTRONIC CONVERSION):

November 13, 1996

REPEALED AND REPLACED:

June 3, 2001 - as "Advisory Rulings"

NON-SUBSTANTIVE CORRECTIONS:

March 25, 2004 - history note only

AMENDED:

November 13, 2012 – filing 2012-314

**Chapter 3-A: LICENSURE AS A TEMPORARY LICENSEE, OCCUPATIONAL THERAPIST
OR OCCUPATIONAL THERAPY ASSISTANT**

SUMMARY: This chapter sets forth license requirements and application procedures for the three levels of license issued by the board.

1. Qualifications for Licensure

A person applying for licensure as a temporary licensee, occupational therapist or occupational therapy assistant shall meet the qualifications for licensure set forth in 32 MRSA §2278, “Temporary License,” 32 MRSA §2279, “Qualifications” or 32 MRSA §2284, “Foreign-Trained Applicants.”

2. Application for Licensure

Application for licensure must be made on forms provided by the board and must be accompanied by the applicable fees prescribed by Chapter 10, Section 5(25) of the rules of the Office of Professional and Occupational Regulation, entitled “Establishment of License Fees.” For issuance of a temporary license, completion of the educational program required by 32 MRSA §2278, 2279(3) or §2284(1) must be demonstrated by completion of a Verification of Education form provided by the board, or an official academic transcript issued under the seal of the educational institution. The official academic transcript must be provided before a permanent license will be issued. The character references required by 32 MRSA §2279(2-A) may not be from a person related to the applicant by blood or by marriage.

An applicant for a temporary license or licensure as an occupational therapy assistant shall submit documentation of supervision on a form provided by the board. Applicants for all levels of licensure shall also submit, in the form required by the board:

1. Verification of licensure from any jurisdiction in which the applicant was at any time licensed as an occupational therapy practitioner;
 2. Information relating to any criminal or disciplinary history of the applicant; and
 3. Such other information as the board may require.
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STATUTORY AUTHORITY: 32 MRSA §§ 2274(2), 2278, 2279, and 2284

EFFECTIVE DATE:

November 13, 2012 – filing 2012-316

Chapter 5: ROLE OF THE OCCUPATIONAL THERAPY ASSISTANT; SUPERVISION OF OCCUPATIONAL THERAPY ASSISTANTS AND TEMPORARY LICENSEES

SUMMARY: This chapter describes the permissible duties of the occupational therapy assistant and the duties of occupational therapists in the supervision of occupational therapy assistants and temporary licensees.

1. Role of the Occupational Therapy Assistant

The occupational therapy assistant:

1. May assist in the practice of occupational therapy only with the supervision of an occupational therapist;
2. Shall apply critical thinking and clinical reasoning, including reflection and reassessment, in addressing clients' needs;
3. May initiate a treatment intervention program only when the client has been evaluated and intervention treatment has been planned by the occupational therapist, and may discharge the client from a treatment intervention program only in collaboration with or after consultation with the occupational therapist;
4. May not perform an evaluation independently, but may contribute to the evaluation process in collaboration or consultation with the occupational therapist;
5. May participate in the screening process by collecting data, such as records, by general observation and/or by conducting a general interview, and may communicate in writing or orally the information gathered to the occupational therapist;
6. May track the need for reassessment, report changes in status that might warrant reassessment or referral, and administer the reassessment under the supervision of the occupational therapist; and
7. Shall immediately discontinue any specific treatment procedure which appears harmful to the client and so notify the supervising occupational therapist.

NOTE: The permissible activities of occupational therapists are set forth in 32 MRSA §2272(12) (statutory definition of occupational therapy).

2. Supervision of Occupational Therapy Assistants and Temporary Licensees

1. Principles of Supervision

The occupational therapist has the ultimate responsibility for occupational therapy treatment outcomes. Supervision is a shared responsibility. The supervising occupational therapist has a legal and ethical responsibility to provide supervision, and the supervisee has a legal and ethical responsibility to obtain supervision. Supervision is required even when the supervisee is experienced and/or highly skilled in a particular area. A supervisor is legally and ethically responsible for the professional activities of an occupational therapy assistant or temporary licensee under his or her supervision.

2. Knowledge of Client

The supervising occupational therapist must have knowledge of the client, or the occupational therapy services received by the client, and the problems being discussed.

3. Supervision of Occupational Therapy Assistants

Supervision consists of “initial directions and periodic inspection of the service delivery and provision of relevant in-service training. The supervising licensed occupational therapist shall determine the frequency and nature of the supervision to be provided based on the clients’ required level of care and the COTA’s caseload, experience and competency.”³² MRSA §2272(14)

4. Supervision of Temporary Licensees

For temporary licensees, supervision “includes initial and periodic inspection or written assessments, written treatment plans, patient notes and periodic evaluation of performance. The reviews and evaluations must be conducted in person by a licensed occupational therapist.”³² MRSA §2272(15)

5. Supervision Requirement; Supervision Forms

- A. Each occupational therapy assistant and temporary licensee must have a supervisor of record for each facility or work setting at or in which the occupational therapy assistant or temporary licensee is employed. The supervising occupational therapist must agree in writing, on a form provided by the board, to provide supervision to the named supervisee pursuant to the laws and rules governing the practice of occupational therapy. Any change of supervisor must be documented by a replacement or supplemental supervision form, as the case may be.
 - B. All supervision forms must be must sent to the board no later than 10 days after execution by the supervisor and supervisee. The supervisor and supervisee are equally responsible for sending the forms to the board and ensuring that accurate, up-to-date supervision forms are on file with the board at all times.
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STATUTORY AUTHORITY: 32 MRSA §§ 2272(12) and 2274(2)

EFFECTIVE DATE:

November 13, 2012 – filing 2012-318

Chapter 6-A: LICENSE RENEWAL; REINSTATEMENT

SUMMARY: This chapter sets forth the requirements for renewing licenses issued by the board and references the statutory requirements for reinstatement of a license that has expired for more than 90 days.

1. License Term**1. Occupational Therapists; Occupational Therapy Assistants**

Licenses of all occupational therapists and occupational therapy assistants expire annually on March 31.

2. Temporary Licensees

The temporary license is issued for a term of 6 months and may be renewed for an additional 6 months at the discretion of the board following review of the documentation required by Section 3 of this chapter.

2. License Renewal

A temporary licensee, occupational therapist or occupational therapy assistant may renew a license by:

1. Submitting a renewal application;
2. Remitting the license fee prescribed by Chapter 10, Section 5(25) of the rules of the Office of Professional and Occupational Regulation, entitled "Establishment of License Fees;"
3. For licenses renewed up to 90 days after the date of expiration, remitting the late fee required by Chapter 11, Section 2(1) of the Rules of the Office of Professional and Occupational Regulation, entitled "Late Renewals;"
4. Providing information relating to any criminal or disciplinary history of the applicant since the time of last renewal; and
5. Providing such other information as the board may require.

3. Temporary Licensee (one-time 6 month renewal)

In addition to the items required by Section 2 of this chapter, a temporary licensee shall also submit:

1. NBCOT approval to sit for the appropriate certification examination;
2. A study plan for the appropriate certification examination;
3. A supervision plan appropriate for the practice setting that meets the requirements of 32 MRSA §2272(15) and has been signed by the supervising occupational therapist; and
4. Such other information as the board may require.

4. Reinstatement

Renewal of a license that has expired for more than 90 days is governed by 32 MRSA §2283(1).

STATUTORY AUTHORITY: 32 MRSA §2274(2)

EFFECTIVE DATE:

November 13, 2012 – filing 2012-320

SUMMARY: This chapter establishes ethical standards of practice for occupational therapists, occupational therapy assistants and temporary licensees.

1. Adoption; Compliance

Subject to the exclusions listed in Section 2 below, the board adopts the AOTA Occupational Therapy Code of Ethics and Ethics Standards (2010) (“Code and Ethics Standards”) as the ethical standard of practice for persons holding a license to practice occupational therapy in this State. A copy of the Code and Ethics Standards is attached to this chapter and made a part hereof. All practitioners must comply with the Code and Ethics Standards.

2. Exclusions

The board does not adopt the following provisions of the Code and Ethics Standards:

1. Principle 4, Social Justice, in its entirety, with the exception of the title “Social Justice,” the prefatory phrase “Occupational therapy personnel shall” and paragraph F;
 2. Principle 5, Procedural Justice, paragraphs D and F; and
 3. Principle 7, Fidelity, paragraphs C, D and G.
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STATUTORY AUTHORITY: 32 MRSA §§ 2274(2), 2283(2)

EFFECTIVE DATE:

June 3, 2001

REPEALED AND REPLACED:

November 13, 2012 – filing 2012-321

Occupational Therapy Code of Ethics and Ethics Standards (2010)

(included as part of Chapter 7 of the Rules of the Board of Occupational Therapy Practice)

PREAMBLE

The American Occupational Therapy Association (AOTA) *Occupational Therapy Code of Ethics and Ethics Standards (2010)* (“Code and Ethics Standards”) is a public statement of principles used to promote and maintain high standards of conduct within the profession. Members of AOTA are committed to promoting inclusion, diversity, independence, and safety for all recipients in various stages of life, health, and illness and to empower all beneficiaries of occupational therapy. This commitment extends beyond service recipients to include professional colleagues, students, educators, businesses, and the community.

Fundamental to the mission of the occupational therapy profession is the therapeutic use of everyday life activities (occupations) with individuals or groups for the purpose of participation in roles and situations in home, school, workplace, community, and other settings. “Occupational therapy addresses the physical, cognitive, psychosocial, sensory, and other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect health, well being, and quality of life” AOTA, 2004). Occupational therapy personnel have an ethical responsibility primarily to recipients of service and secondarily to society.

The *Occupational Therapy Code of Ethics and Ethics Standards (2010)* was tailored to address the most prevalent ethical concerns of the profession in education, research, and practice. The concerns of stakeholders including the public, consumers, students, colleagues, employers, research participants, researchers, educators, and practitioners were addressed in the creation of this document. A review of issues raised in ethics cases, member questions related to ethics, and content of other professional codes of ethics were utilized to ensure that the revised document is applicable to occupational therapists, occupational therapy assistants, and students in all roles.

The historical foundation of this Code and Ethics Standards is based on ethical reasoning surrounding practice and professional issues, as well as on empathic reflection regarding these interactions with others (see e.g., AOTA, 2005, 2006). This reflection resulted in the establishment of principles that guide ethical action, which goes beyond rote following of rules or application of principles. Rather, *ethical action* is a manifestation of moral character and mindful reflection. It is a commitment to benefit others, to virtuous practice of artistry and science, to genuinely good behaviors, and to noble acts of courage.

While much has changed over the course of the profession’s history, more has remained the same. The profession of occupational therapy remains grounded in seven core concepts, as identified in the *Core Values and Attitudes of Occupational Therapy Practice* (AOTA, 1993): *altruism, equality, freedom, justice, dignity, truth, and prudence*. *Altruism* is the individual’s ability to place the needs of others before their own. *Equality* refers to the desire to promote fairness in interactions with others. The concept of *freedom* and personal choice is paramount in a profession in which the desires of the client must guide our interventions. Occupational therapy practitioners, educators, and researchers relate in a fair and impartial manner to individuals with whom they interact and respect and adhere to the applicable laws and standards regarding their area of practice, be it direct care, education, or research (*justice*). Inherent in the practice of occupational therapy is the promotion and preservation of the individuality and *dignity* of the client, by assisting him or her to engage in occupations that are meaningful to him or her regardless of level of disability. In all situations, occupational therapists, occupational therapy assistants, and students must provide accurate information, both in oral and written form (*truth*). Occupational therapy personnel use their clinical and ethical reasoning skills, sound judgment, and reflection to make decisions to direct them in their area(s) of practice (*prudence*). These seven core values provide a foundation by which occupational therapy personnel guide their interactions with others, be they students, clients, colleagues,

research participants, or communities. These values also define the ethical principles to which the profession is committed and which the public can expect.

The *Occupational Therapy Code of Ethics and Ethics Standards (2010)* is a guide to professional conduct when ethical issues arise. Ethical decision making is a process that includes awareness of how the outcome will impact occupational therapy clients in all spheres. Applications of Code and Ethics Standards Principles are considered situation-specific, and where a conflict exists, occupational therapy personnel will pursue responsible efforts for resolution. These Principles apply to occupational therapy personnel engaged in any professional role, including elected and volunteer leadership positions.

The specific purposes of the *Occupational Therapy Code of Ethics and Ethics Standards (2010)* are to

1. Identify and describe the principles supported by the occupational therapy profession.
2. Educate the general public and members regarding established principles to which occupational therapy personnel are accountable.
3. Socialize occupational therapy personnel to expected standards of conduct.
4. Assist occupational therapy personnel in recognition and resolution of ethical dilemmas. The *Occupational Therapy Code of Ethics and Ethics Standards (2010)* define the set of principles that apply to occupational therapy personnel at all levels:

DEFINITIONS

- **Recipient of service:** Individuals or groups receiving occupational therapy.
- **Student:** A person who is enrolled in an accredited occupational therapy education program.
- **Research participant:** A prospective participant or one who has agreed to participate in an approved research project.
- **Employee:** A person who is hired by a business (facility or organization) to provide occupational therapy services.
- **Colleague:** A person who provides services in the same or different business (facility or organization) to which a professional relationship exists or may exist.
- **Public:** The community of people at large.

BENEFACTANCE

Principle 1. Occupational therapy personnel shall demonstrate a concern for the well-being and safety of the recipients of their services.

Benefactance includes all forms of action intended to benefit other persons. The term *benefactance* connotes acts of mercy, kindness, and charity (Beauchamp & Childress, 2009). Forms of benefactance typically include altruism, love, and humanity. Benefactance requires taking action by helping others, in other words, by promoting good, by preventing harm, and by removing harm. Examples of benefactance include protecting and defending the rights of others, preventing harm from occurring to others, removing conditions that will cause harm to others, helping persons with disabilities, and rescuing persons in danger (Beauchamp & Childress, 2009).

Occupational therapy personnel shall

- A. Respond to requests for occupational therapy services (e.g., a referral) in a timely manner as determined by law, regulation, or policy.
- B. Provide appropriate evaluation and a plan of intervention for all recipients of occupational therapy services specific to their needs.

- C. Reevaluate and reassess recipients of service in a timely manner to determine if goals are being achieved and whether intervention plans should be revised.
- D. Avoid the inappropriate use of outdated or obsolete tests/assessments or data obtained from such tests in making intervention decisions or recommendations.
- E. Provide occupational therapy services that are within each practitioner's level of competence and scope of practice (e.g., qualifications, experience, the law).
- F. Use, to the extent possible, evaluation, planning, intervention techniques, and therapeutic equipment that are evidence-based and within the recognized scope of occupational therapy practice.
- G. Take responsible steps (e.g., continuing education, research, supervision, training) and use careful judgment to ensure their own competence and weigh potential for client harm when generally recognized standards do not exist in emerging technology or areas of practice.
- H. Terminate occupational therapy services in collaboration with the service recipient or responsible party when the needs and goals of the recipient have been met or when services no longer produce a measurable change or outcome.
- I. Refer to other health care specialists solely on the basis of the needs of the client.
- J. Provide occupational therapy education, continuing education, instruction, and training that are within the instructor's subject area of expertise and level of competence.
- K. Provide students and employees with information about the Code and Ethics Standards, opportunities to discuss ethical conflicts, and procedures for reporting unresolved ethical conflicts.
- L. Ensure that occupational therapy research is conducted in accordance with currently accepted ethical guidelines and standards for the protection of research participants and the dissemination of results.
- M. Report to appropriate authorities any acts in practice, education, and research that appear unethical or illegal.
- N. Take responsibility for promoting and practicing occupational therapy on the basis of current knowledge and research and for further developing the profession's body of knowledge.

NONMALEFICENCE

Principle 2. Occupational therapy personnel shall intentionally refrain from actions that cause harm.

Nonmaleficence imparts an obligation to refrain from harming others (Beauchamp & Childress, 2009). The principle of nonmaleficence is grounded in the practitioner's responsibility to refrain from causing harm, inflicting injury, or wronging others. While beneficence requires action to incur benefit, nonmaleficence requires non-action to avoid harm (Beauchamp & Childress, 2009). Nonmaleficence also includes an obligation to not impose risks of harm even if the potential risk is without malicious or harmful intent. This principle often is examined under the context of *due care*. If the standard of due care outweighs the benefit of treatment, then refraining from treatment provision would be ethically indicated (Beauchamp & Childress, 2009).

Occupational therapy personnel shall

- A. Avoid inflicting harm or injury to recipients of occupational therapy services, students, research participants, or employees.
- B. Make every effort to ensure continuity of services or options for transition to appropriate services to avoid abandoning the service recipient if the current provider is unavailable due to medical or other absence or loss of employment.
- C. Avoid relationships that exploit the recipient of services, students, research participants, or employees physically, emotionally, psychologically, financially, socially, or in any other manner that conflicts or interferes with professional judgment and objectivity.

- D. Avoid engaging in any sexual relationship or activity, whether consensual or nonconsensual, with any recipient of service, including family or significant other, student, research participant, or employee, while a relationship exists as an occupational therapy practitioner, educator, researcher, supervisor, or employer.
- E. Recognize and take appropriate action to remedy personal problems and limitations that might cause harm to recipients of service, colleagues, students, research participants, or others.
- F. Avoid any undue influences, such as alcohol or drugs, that may compromise the provision of occupational therapy services, education, or research.
- G. Avoid situations in which a practitioner, educator, researcher, or employer is unable to maintain clear professional boundaries or objectivity to ensure the safety and well-being of recipients of service, students, research participants, and employees.
- H. Maintain awareness of and adherence to the Code and Ethics Standards when participating in volunteer roles.
- I. Avoid compromising client rights or well-being based on arbitrary administrative directives by exercising professional judgment and critical analysis.
- J. Avoid exploiting any relationship established as an occupational therapist or occupational therapy assistant to further one's own physical, emotional, financial, political, or business interests at the expense of the best interests of recipients of services, students, research participants, employees, or colleagues.
- K. Avoid participating in bartering for services because of the potential for exploitation and conflict of interest unless there are clearly no contraindications or bartering is a culturally appropriate custom.
- L. Determine the proportion of risk to benefit for participants in research prior to implementing a study.

AUTONOMY AND CONFIDENTIALITY

Principle 3. Occupational therapy personnel shall respect the right of the individual to self-determination.

The principle of autonomy and confidentiality expresses the concept that practitioners have a duty to treat the client according to the client's desires, within the bounds of accepted standards of care and to protect the client's confidential information. Often *autonomy* is referred to as the *self-determination* principle. However, respect for autonomy goes beyond acknowledging an individual as a mere agent and also acknowledges a "person's right to hold views, to make choices, and to take actions based on personal values and beliefs" (Beauchamp & Childress, 2009, p. 103). Autonomy has become a prominent principle in health care ethics; the right to make a determination regarding care decisions that directly impact the life of the service recipient should reside with that individual. The principle of autonomy and confidentiality also applies to students in an educational program, to participants in research studies, and to the public who seek information about occupational therapy services.

Occupational therapy personnel shall

- A. Establish a collaborative relationship with recipients of service including families, significant others, and caregivers in setting goals and priorities throughout the intervention process. This includes full disclosure of the benefits, risks, and potential outcomes of any intervention; the personnel who will be providing the intervention(s); and/or any reasonable alternatives to the proposed intervention.
- B. Obtain consent before administering any occupational therapy service, including evaluation, and ensure that recipients of service (or their legal representatives) are kept informed of the progress in meeting goals specified in the plan of intervention/care. If the service recipient cannot give

consent, the practitioner must be sure that consent has been obtained from the person who is legally responsible for that recipient.

- C. Respect the recipient of service's right to refuse occupational therapy services temporarily or permanently without negative consequences.
- D. Provide students with access to accurate information regarding educational requirements and academic policies and procedures relative to the occupational therapy program/educational institution.
- E. Obtain informed consent from participants involved in research activities, and ensure that they understand the benefits, risks, and potential outcomes as a result of their participation as research subjects.
- F. Respect research participant's right to withdraw from a research study without consequences.
- G. Ensure that confidentiality and the right to privacy are respected and maintained regarding all information obtained about recipients of service, students, research participants, colleagues, or employees. The only exceptions are when a practitioner or staff member believes that an individual is in serious foreseeable or imminent harm. Laws and regulations may require disclosure to appropriate authorities without consent.
- H. Maintain the confidentiality of all verbal, written, electronic, augmentative, and non-verbal communications, including compliance with HIPAA regulations.
- I. Take appropriate steps to facilitate meaningful communication and comprehension in cases in which the recipient of service, student, or research participant has limited ability to communicate (e.g., aphasia or differences in language, literacy, culture).
- J. Make every effort to facilitate open and collaborative dialogue with clients and/or responsible parties to facilitate comprehension of services and their potential risks/benefits.

SOCIAL JUSTICE

Principle 4. Occupational therapy personnel shall provide services in a fair and equitable manner.

Social justice, also called *distributive justice*, refers to the fair, equitable, and appropriate distribution of resources. The principle of social justice refers broadly to the distribution of all rights and responsibilities in society (Beauchamp & Childress, 2009). In general, the principle of social justice supports the concept of achieving justice in every aspect of society rather than merely the administration of law. The general idea is that individuals and groups should receive fair treatment and an impartial share of the benefits of society. Occupational therapy personnel have a vested interest in addressing unjust inequities that limit opportunities for participation in society (Braveman & Bass-Haugen, 2009). While opinions differ regarding the most ethical approach to addressing distribution of health care resources and reduction of health disparities, the issue of social justice continues to focus on limiting the impact of social inequality on health outcomes.

Occupational therapy personnel shall

- A. Uphold the profession's altruistic responsibilities to help ensure the common good.
- B. Take responsibility for educating the public and society about the value of occupational therapy services in promoting health and wellness and reducing the impact of disease and disability.
- C. Make every effort to promote activities that benefit the health status of the community.
- D. Advocate for just and fair treatment for all patients, clients, employees, and colleagues, and encourage employers and colleagues to abide by the highest standards of social justice and the ethical standards set forth by the occupational therapy profession.
- E. Make efforts to advocate for recipients of occupational therapy services to obtain needed services through available means.

- F. Provide services that reflect an understanding of how occupational therapy service delivery can be affected by factors such as economic status, age, ethnicity, race, geography, disability, marital status, sexual orientation, gender, gender identity, religion, culture, and political affiliation.
- ~~G. Consider offering *pro bono* (“for the good”) or reduced fee occupational therapy services for selected individuals when consistent with guidelines of the employer, third party payer, and/or government agency.~~

PROCEDURAL JUSTICE

Principle 5. Occupational therapy personnel shall comply with institutional rules, local, state, federal, and international laws and AOTA documents applicable to the profession of occupational therapy.

Procedural justice is concerned with making and implementing decisions according to fair processes that ensure “fair treatment” (Maiese, 2004). Rules must be impartially followed and consistently applied to generate an unbiased decision. The principle of procedural justice is based on the concept that procedures and processes are organized in a fair manner and that policies, regulations, and laws are followed. While *the law* and *ethics* are not synonymous terms, occupational therapy personnel have an ethical responsibility to uphold current reimbursement regulations and state/territorial laws governing the profession. In addition, occupational therapy personnel are ethically bound to be aware of organizational policies and practice guidelines set forth by regulatory agencies established to protect recipients of service, research participants, and the public.

Occupational therapy personnel shall

- A. Be familiar with and apply the Code and Ethics Standards to the work setting, and share them with employers, other employees, colleagues, students, and researchers.
- B. Be familiar with and seek to understand and abide by institutional rules, and when those rules conflict with ethical practice, take steps to resolve the conflict.
- C. Be familiar with revisions in those laws and AOTA policies that apply to the profession of occupational therapy and inform employers, employees, colleagues, students, and researchers of those changes.
- ~~D. Be familiar with established policies and procedures for handling concerns about the Code and Ethics Standards, including familiarity with national, state, local, district, and territorial procedures for handling ethics complaints as well as policies and procedures created by AOTA and certification, licensing, and regulatory agencies.~~
- E. Hold appropriate national, state, or other requisite credentials for the occupational therapy services they provide.
- ~~F. Take responsibility for maintaining high standards and continuing competence in practice, education, and research by participating in professional development and educational activities to improve and update knowledge and skills.~~
- G. Ensure that all duties assumed by or assigned to other occupational therapy personnel match credentials, qualifications, experience, and scope of practice.
- H. Provide appropriate supervision to individuals for whom they have supervisory responsibility in accordance with AOTA official documents and local, state, and federal or national laws, rules, regulations, policies, procedures, standards, and guidelines.
- I. Obtain all necessary approvals prior to initiating research activities.
- J. Report all gifts and remuneration from individuals, agencies, or companies in accordance with employer policies as well as state and federal guidelines.
- K. Use funds for intended purposes, and avoid misappropriation of funds.

- L. Take reasonable steps to ensure that employers are aware of occupational therapy's ethical obligations as set forth in this Code and Ethics Standards and of the implications of those obligations for occupational therapy practice, education, and research.
- M. Actively work with employers to prevent discrimination and unfair labor practices, and advocate for employees with disabilities to ensure the provision of reasonable accommodations.
- N. Actively participate with employers in the formulation of policies and procedures to ensure legal, regulatory, and ethical compliance.
- O. Collect fees legally. Fees shall be fair, reasonable, and commensurate with services delivered. Fee schedules must be available and equitable regardless of actual payer reimbursements/contracts.
- P. Maintain the ethical principles and standards of the profession when participating in a business arrangement as owner, stockholder, partner, or employee, and refrain from working for or doing business with organizations that engage in illegal or unethical business practices (e.g., fraudulent billing, providing occupational therapy services beyond the scope of occupational therapy practice).

VERACITY

Principle 6. Occupational therapy personnel shall provide comprehensive, accurate, and objective information when representing the profession.

Veracity is based on the virtues of truthfulness, candor, and honesty. The principle of *veracity* in health care refers to comprehensive, accurate, and objective transmission of information and includes fostering the client's understanding of such information (Beauchamp & Childress, 2009). Veracity is based on respect owed to others. In communicating with others, occupational therapy personnel implicitly promise to speak truthfully and not deceive the listener. By entering into a relationship in care or research, the recipient of service or research participant enters into a contract that includes a right to truthful information (Beauchamp & Childress, 2009). In addition, transmission of information is incomplete without also ensuring that the recipient or participant understands the information provided. Concepts of veracity must be carefully balanced with other potentially competing ethical principles, cultural beliefs, and organizational policies. Veracity ultimately is valued as a means to establish trust and strengthen professional relationships. Therefore, adherence to the Principle also requires thoughtful analysis of how full disclosure of information may impact outcomes.

Occupational therapy personnel shall

- A. Represent the credentials, qualifications, education, experience, training, roles, duties, competence, views, contributions, and findings accurately in all forms of communication about recipients of service, students, employees, research participants, and colleagues.
- B. Refrain from using or participating in the use of any form of communication that contains false, fraudulent, deceptive, misleading, or unfair statements or claims.
- C. Record and report in an accurate and timely manner, and in accordance with applicable regulations, all information related to professional activities.
- D. Ensure that documentation for reimbursement purposes is done in accordance with applicable laws, guidelines, and regulations.
- E. Accept responsibility for any action that reduces the public's trust in occupational therapy.
- F. Ensure that all marketing and advertising are truthful, accurate, and carefully presented to avoid misleading recipients of service, students, research participants, or the public.
- G. Describe the type and duration of occupational therapy services accurately in professional contracts, including the duties and responsibilities of all involved parties.
- H. Be honest, fair, accurate, respectful, and timely in gathering and reporting fact-based information regarding employee job performance and student performance.
- I. Give credit and recognition when using the work of others in written, oral, or electronic media.
- J. Not plagiarize the work of others.

FIDELITY

Principle 7. Occupational therapy personnel shall treat colleagues and other professionals with respect, fairness, discretion, and integrity.

The principle of fidelity comes from the Latin root *fidelis* meaning loyal. *Fidelity* refers to being faithful, which includes obligations of loyalty and the keeping of promises and commitments (Veatch & Flack, 1997). In the health professions, fidelity refers to maintaining good-faith relationships between various service providers and recipients. While respecting fidelity requires occupational therapy personnel to meet the client's reasonable expectations (Purtillo, 2005), Principle 7 specifically addresses fidelity as it relates to maintaining collegial and organizational relationships. Professional relationships are greatly influenced by the complexity of the environment in which occupational therapy personnel work. Practitioners, educators, and researchers alike must consistently balance their duties to service recipients, students, research participants, and other professionals as well as to organizations that may influence decision-making and professional practice.

Occupational therapy personnel shall

- A. Respect the traditions, practices, competencies, and responsibilities of their own and other professions, as well as those of the institutions and agencies that constitute the working environment.
 - B. Preserve, respect, and safeguard private information about employees, colleagues, and students unless otherwise mandated by national, state, or local laws or permission to disclose is given by the individual.
 - ~~C. Take adequate measures to discourage, prevent, expose, and correct any breaches of the Code and Ethics Standards and report any breaches of the former to the appropriate authorities.~~
 - ~~D. Attempt to resolve perceived institutional violations of the Code and Ethics Standards by utilizing internal resources first.~~
 - E. Avoid conflicts of interest or conflicts of commitment in employment, volunteer roles, or research.
 - F. Avoid using one's position (employee or volunteer) or knowledge gained from that position in such a manner that gives rise to real or perceived conflict of interest among the person, the employer, other Association members, and/or other organizations.
 - ~~G. Use conflict resolution and/or alternative dispute resolution resources to resolve organizational and interpersonal conflicts.~~
 - H. Be diligent stewards of human, financial, and material resources of their employers, and refrain from exploiting these resources for personal gain.
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References

- American Occupational Therapy Association. (1993). Core values and attitudes of occupational therapy practice. *American Journal of Occupational Therapy*, 47, 1085–1086.
- American Occupational Therapy Association. (2005). Occupational therapy code of ethics(2005). *American Journal of Occupational Therapy*, 59, 639–642.
- American Occupational Therapy Association. (2006). Guidelines to the occupational therapy code of ethics. *American Journal of Occupational Therapy*, 60, 652–658.
- American Occupational Therapy Association. (2004). Policy 5.3.1: Definition of occupational therapy practice for State Regulation. *American Journal of Occupational Therapy*, 58,694-695.
- Beauchamp, T. L., & Childress, J. F. (2009). *Principles of biomedical ethics* (6th ed.). New York: Oxford University Press.
- Braveman, B., & Bass-Haugen, J. D. (2009). Social justice and health disparities: An evolving discourse in occupational therapy research and intervention. *American Journal of Occupational Therapy*, 63, 7–12.
- Maiese, M. (2004). Procedural justice. Retrieved July 29, 2009, from http://www.beyondintractability.org/essay/procedural_justice/
- Purtillo, R. (2005). *Ethical dimensions in the health professions* (4th ed.). Philadelphia: Elsevier/Saunders.
- Veatch, R. M., & Flack, H. E. (1997). *Case studies in allied health ethics*. Upper Saddle River, NJ: Prentice-Hall.
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Note. This document replaces the following rescinded Ethics documents 2010CApril18: the Occupational Therapy Code of Ethics (2005)(American Journal of Occupational Therapy, 59, 639–642); the Guidelines to the Occupational Therapy Code of Ethics (American Journal of Occupational Therapy, 60, 652–658); and the Core Values and Attitudes of Occupational Therapy Practice (American Journal of Occupational Therapy, 47, 1085–1086).

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Chapter 9: PROFESSIONAL MISCONDUCT

Summary: This chapter describes professional misconduct that may result in disciplinary action against a licensee, including denial or non-renewal of a license.

1. Grounds for Discipline

In addition to the grounds for discipline set forth in 10 MRSA §8003(5-A)(A) and 32 MRSA §2286, the board may impose disciplinary action against a licensee, including denial or non-renewal of a license, for any of the following reasons:

1. Habitual Substance Abuse

Habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing professional services in a manner that endangers the health or safety of patients; or

2. Sexual Misconduct

Sexual misconduct, which includes but is not limited to:

- A. Sexual behavior with an individual served in the context of a professional evaluation, treatment, procedure or other service to the client or patient, regardless of the setting in which the professional service is provided;
- B. Sexual behavior with an individual served under the pretense of diagnostic or therapeutic intent or benefit;
- C. Making sexual advances toward or requesting sexual favors from an individual served;
- D. Therapeutically inappropriate or intentional touching in a sexual manner of an individual served;
- E. Physical contact of a sexual nature with an individual served;
- F. Therapeutically unnecessary discussion of sexual matters or other verbal conduct of a sexual nature while treating the individual being served;
- G. Directly or indirectly watching the individual served while the individual is undressing or dressing when it is not part of the therapeutic process;

- H. Taking, for sexual purposes, photographs or videos of an individual served; and
 - I. Sexual harassment of staff or students.
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STATUTORY AUTHORITY: 32 MRSA §2274(2)

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