

AN ACT

RELATING TO PROFESSIONAL LICENSURE; AMENDING SECTIONS OF THE OCCUPATIONAL THERAPY ACT TO MAKE CHANGES TO THE SCOPE OF PRACTICE OF PERSONS LICENSED OR CERTIFIED PURSUANT TO THAT ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 61-12A-3 NMSA 1978 (being Laws 1996, Chapter 55, Section 3, as amended) is amended to read:

"61-12A-3. DEFINITIONS.--As used in the Occupational Therapy Act:

A. "activity of daily living" means an activity that is oriented toward taking care of one's own body, including but not limited to bathing, showering, bowel and bladder management, dressing, eating, feeding, functional mobility, personal device care, personal hygiene and grooming, sexual activity, sleep, rest and toilet hygiene;

B. "aide" means an unlicensed person who:

(1) provides supportive services to an occupational therapist;

(2) works under the direct supervision of an occupational therapist or occupational therapy assistant;

(3) functions only under the guidance, responsibility and supervision of a licensed occupational therapist or an occupational therapy assistant who is

supervised by an occupational therapist; and

(4) provides only specifically selected client-related or non-client-related tasks for which the aide has been trained and has demonstrated competence to the supervising occupational therapist or occupational therapy assistant;

C. "board" means the board of examiners for occupational therapy;

D. "censure" means a formal expression of disapproval that is publicly announced;

E. "denial of license" means that a person is barred from becoming licensed to practice in accordance with the provisions of the Occupational Therapy Act either indefinitely or for a certain period;

F. "instrumental activity of daily living" means an activity that:

(1) is oriented toward interacting with the environment and that may be complex;

(2) is generally optional in nature and may be delegated to another person; and

(3) includes but is not limited to care of others, care of pets, child-rearing, communication device use, community mobility, financial management, health management and maintenance, home establishment and management, meal preparation and cleanup, safety procedures and emergency

responses, work and shopping;

G. "licensee" means an occupational therapist or occupational therapy assistant, as appropriate;

H. "low-vision rehabilitation service" means the evaluation, management and care of a low-vision client as it affects the client's occupational performance;

I. "occupational therapist" means a person who holds an active license to practice occupational therapy in New Mexico;

J. "occupational therapy" means the therapeutic use of everyday life activities with persons or groups to participate in roles and situations in home, school, workplace, community and other settings to promote health and wellness in clients who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation or participation restriction. "Occupational therapy" includes addressing the physical, cognitive, psychosocial, sensory and other aspects of performance in a variety of contexts to support a client's engagement in everyday life activities that affect health, well-being and quality of life;

K. "occupational therapy assistant" means a person having no less than an associate degree in occupational therapy and holding an active license to practice occupational therapy in New Mexico who assists in the practice of

occupational therapy under the supervision of the occupational therapist;

L. "person" means an individual, association, partnership, unincorporated organization or corporate body;

M. "practice of occupational therapy" means the therapeutic use of occupations, including everyday life activities with individuals or groups, that support health, well-being, participation, performance and function in roles and situations in home, school, workplace, community and other settings. Occupational therapy includes the provision of services for habilitation, rehabilitation and the promotion of health and wellness to those who have or who are at risk of developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation or participation restriction. Occupational therapy also includes addressing the physical, cognitive, psychosocial, sensory-perceptual and other aspects of performance in a variety of contexts and environments to support engagement in occupations that affect physical and mental health, well-being and quality of life;

N. "probation" means continued licensure is subject to fulfillment of specified conditions such as monitoring, education, supervision or counseling;

O. "reprimand" means a formal expression of disapproval that is retained in the licensee's file but not publicly announced;

P. "revocation" means permanent loss of licensure;
and

Q. "suspension" means the loss of licensure for a certain period, after which the person may be required to apply for reinstatement."

SECTION 2. Section 61-12A-4 NMSA 1978 (being Laws 1996, Chapter 55, Section 4, as amended) is amended to read:

"61-12A-4. OCCUPATIONAL THERAPY SERVICES.--Occupational therapy services include:

A. selected strategies to direct the process of interventions, such as:

(1) establishment, remediation or restoration of a skill or ability that has not yet developed, is impaired or is in decline;

(2) compensation, modification or adaptation of activity or environment to enhance performance or prevent injuries, disorders or other conditions;

(3) retention and enhancement of capabilities without which performance in everyday life activities would decline;

(4) health promotion and wellness, including the use of self-management strategies, to enable enhanced performance in everyday life activities;

(5) prevention of barriers to performance and participation, including injury and disability prevention;

and

(6) therapeutic use of self, including the planned use of collaboration, empathy, caring, therapeutic communication, advocacy, encouragement, instructing and problem-solving;

B. evaluation of factors affecting activities of daily living, instrumental activities of daily living, education, work, play, leisure and social participation, including:

(1) client factors, including neuromuscular, sensory, visual, perceptual and cognitive functions and cardiovascular, digestive, integumentary and genitourinary systems;

(2) habits, routines, roles and behavior patterns;

(3) cultural, physical, environmental, social and spiritual contexts and activity demands that affect performance; and

(4) performance skills, including motor, process and communication and interaction skills; and

C. interventions and procedures to promote or enhance safety and performance in activities of daily living, instrumental activities of daily living, education, work, play, leisure and social participation, including:

(1) therapeutic use of occupations,

exercises and activities;

(2) training in self-care, self-management, health management and maintenance, home management, community-work reintegration, school activities and work performance;

(3) development, remediation or compensation of neuromusculoskeletal, sensory perceptual, visual, mental and cognitive functions and pain tolerance and management;

(4) education and training of persons, including family members, caregivers and others;

(5) care coordination, case management and transition services;

(6) consultative services to groups, programs, organizations or communities;

(7) modification of home, work, school or community environments and adaptation of processes, including the application of ergonomic principles;

(8) assessment, design, fabrication, application, fitting and training in seating and positioning, assistive technology, adaptive devices and orthotic devices and training in the use of prosthetic devices;

(9) assessment, recommendation and training in techniques to enhance functional mobility, including wheelchair management;

(10) driver rehabilitation and community mobility;

(11) management of feeding, eating and swallowing to enable eating and feeding performance;

(12) application of physical agent modalities and use of a range of specific therapeutic procedures such as wound care management; techniques to enhance sensory, perceptual and cognitive processing; and manual therapy techniques to enhance performance skills;

(13) low-vision rehabilitation, as related to occupational performance;

(14) group interventions and consultative services to groups, programs, populations, organizations or communities to facilitate the occupational performance of the groups, programs, populations, organizations or communities through modification of environment, education and adaptation of processes; and

(15) self-advocacy undertaken by the client that the practitioner can promote and support."

SECTION 3. Section 61-12A-5 NMSA 1978 (being Laws 1996, Chapter 55, Section 5, as amended) is amended to read:

"61-12A-5. SUPERVISION--REQUIRED--DEFINED.--

A. Occupational therapy shall not be performed by an occupational therapy assistant or by any person practicing on a provisional permit unless such therapy is supervised by an occupational therapist. The board shall adopt rules defining supervision.

B. An aide shall provide supportive services to an occupational therapist or occupational therapy assistant. The following provisions apply to the tasks that an aide performs:

(1) an aide:

(a) shall not provide skilled occupational therapy services;

(b) shall be trained by an occupational therapist or an occupational therapy assistant to perform specifically delegated tasks;

(c) may perform routine tasks that involve interaction with a client;

(d) may perform non-client-related tasks that include clerical or maintenance activities or preparation of a work area or equipment; and

(e) shall demonstrate competency before performing a delegated task;

(2) a supervising occupational therapist:

(a) is responsible for the actions of an aide whom the occupational therapist supervises; and

(b) shall oversee the development, documentation and implementation of a plan of supervision and shall routinely assess the ability of the aide to carry out non-client-related and client-related tasks; and

(3) an occupational therapy assistant may supervise an aide."

SECTION 4. Section 61-12A-9 NMSA 1978 (being Laws 1996, Chapter 55, Section 9, as amended) is amended to read:

"61-12A-9. BOARD--POWERS AND DUTIES.--

A. The board shall:

(1) adopt, file, amend or repeal rules and regulations in accordance with the Uniform Licensing Act to carry out the provisions of the Occupational Therapy Act;

(2) use funds for the purpose of meeting the necessary expenses incurred in carrying out the provisions of the Occupational Therapy Act;

(3) enforce the ethical practice of occupational therapy using an accepted standard of ethics for the practice of occupational therapy in the United States;

(4) enforce the provisions of the Occupational Therapy Act to protect the public by conducting hearings on charges relating to the discipline of licensees, including the denial, suspension or revocation of a license;

(5) establish and collect fees;

(6) provide for examination for and issuance, renewal and reinstatement of licenses;

(7) establish, impose and collect fines for violations of the Occupational Therapy Act;

(8) appoint a registrar to keep records and minutes necessary to carry out the functions of the board; and

(9) obtain the legal assistance of the

attorney general.

B. The board may:

(1) issue investigative subpoenas for the purpose of investigating complaints against licensees prior to the issuance of a notice of contemplated action;

(2) hire or contract with an investigator to investigate complaints that have been filed with the board. The board shall set the compensation of the investigator to be paid from the funds of the board;

(3) inspect establishments; and

(4) designate hearing officers."

SECTION 5. Section 61-12A-24 NMSA 1978 (being Laws 1996, Chapter 55, Section 24, as amended by Laws 2005, Chapter 199, Section 12 and by Laws 2005, Chapter 208, Section 7) is amended to read:

"61-12A-24. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of examiners for occupational therapy is terminated on July 1, 2025 pursuant to the provisions of the Sunset Act. The board shall continue to operate according to the provisions of the Occupational Therapy Act until July 1, 2026. Effective July 1, 2026, the Occupational Therapy Act is repealed."
