

**STATE OF KANSAS
BOARD OF HEALING ARTS**

Notice of Public Hearing on Proposed Administrative Regulations

A public hearing will be conducted on Thursday, March 24, 2016, at 10:00 a.m. in the board room at the Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level – Suite A, Topeka, Kansas, to consider a proposed new regulation and an amendment to an existing regulation pertaining to the licensure of and practice by Occupational Therapists and Occupational Therapy Assistants.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the above-referenced rule and regulations. All interested parties may submit comments prior to the hearing to Kelli Stevens, General Counsel, at the Board of Healing Arts at the address above, or via e-mail to healingarts@ksbha.ks.gov. All interested parties will be given a reasonable opportunity to present their views, orally or in writing, concerning the proposed new and amended regulation during the public hearing. In order to provide all parties with an opportunity to present their views, it may be necessary to request each participant limit any oral presentations to five minutes.

Copies of the proposed regulations and the Economic Impact Statement for the proposed regulations may be obtained from the Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level – Suite A, Topeka, Kansas 66612; on the agency website at <http://www.ksbha.org/publicinformation/publicinformation.shtml>, by contacting Jenne Cook at (785) 296-2482, or by e-mailing the agency at healingarts@ksbha.ks.gov.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations being considered and the economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Barbara Montgomery at (785) 296-8558 or at bmontgomery@ksbha.ks.gov. Individuals with hearing and/or speech disabilities may contact the Kansas Relay Center at 800-766-3777 for communication accommodations. Handicapped parking is located on 8th Street and in the building's parking garage. From the street, both the West entrance to the building on Jackson Street and the North entrance on 8th Street are accessible.

A summary of the proposed new regulation and proposed amended regulation and their economic impact follows:

K.A.R. 100-54-7. (amended)

The purpose of this regulation is to provide clarity regarding allowable amounts of continuing education contact hours for each type of continuing education experience for licensed occupational therapists and occupational therapy assistants. A description of the criteria for the Board's exercise of discretion in granting an extension of time for completing continuing education has been added. The terms in-service, professional reading and full-time fieldwork are also defined.

K.A.R. 100-54-12. (new)

The purpose of this new regulation is to set forth the requirements for an occupational therapist when delegating occupational therapy services to and supervising an occupational therapy assistant. An occupational therapist is also limited to supervising the combined equivalent of four full-time occupational therapy assistants. The regulation also sets forth the occupational therapy services which are allowed to be performed by an occupational therapy assistant and those services which shall not be performed by an occupational therapy assistant. The regulation also provides that failure to meet the requirements of the regulation constitutes unprofessional conduct.

The economic impact of the proposed new regulation and amended regulation is anticipated to be a minimal cost to the Kansas State Board of Healing Arts for staff time to update continuing education forms and processes, and educate licensees and stakeholders on the new supervision and delegation requirements. It is anticipated that some health care facilities in which an occupational therapist currently supervises more than the combined equivalent of four full-time occupational therapy assistants may encounter an adverse economic impact if they have to hire additional occupational therapists or cannot employ the same number of occupational therapy assistants.

100-54-7. Continuing education; license renewal. (a)(1) Each licensee shall submit evidence of completing ~~a minimum of~~ 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 ~~fewer~~ 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 ~~a minimum of~~ at least 30 contact hours from one or more of the following: class I, class IV, ~~or~~ class V, and class VI. ~~A maximum of 20 contact hours may be acquired from class I as defined in paragraph (g)(1)(G). A maximum of eight contact hours may be acquired from class II. A maximum of two contact hours may be acquired from class III. A maximum of 30 contact hours may be acquired from class V. A maximum of 10 contact hours may be acquired from 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” 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 ~~the~~ 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. ~~A maximum of two contact hours may be given~~ for “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. ~~Each~~ Any licensee who presents a class I continuing education program or its equivalent ~~shall~~ 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. ~~Five contact hours may be given for supervising a level II student's full-time fieldwork for at least a six-week period or its equivalent. Ten contact hours may be given for supervising fieldwork for at least a 12-week period or its equivalent.~~ One contact hour per week may be given for supervising a level II student's full-time fieldwork. "Full-time fieldwork" 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 P-_____.)

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 P- _____.)

**KANSAS STATE BOARD OF HEALING ARTS
ECONOMIC IMPACT STATEMENT
K.A.R. 100-54-7, 100-54-12**

Pursuant to the requirements of K.S.A. 77-416(b), the Kansas State Board of Healing Arts submits the following Economic Impact Statement relating to a proposed amended regulation and a proposed new regulation.

I. Summary of Proposed Regulations:

K.A.R. 100-54-7. (amended)

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II. Federal Mandate:

These regulations are not mandated by any federal law.

III. Anticipated Economic Impact upon the Kansas Board of Healing Arts:

Minimal cost to the Kansas State Board of Healing Arts for staff time to update continuing education forms and processes, and educate licensees and stakeholders on the new supervision and delegation requirements.

IV. Anticipated Economic Impact upon Other Governmental Agencies and upon Private Business or Individuals:

It is anticipated that some health care facilities in which an occupational therapist currently supervises more than the combined equivalent of four full-time occupational therapy assistants may encounter an adverse economic impact if they have to hire additional occupational therapists or cannot employ the same number of occupational therapy assistants.

V. Less Costly or Intrusive Methods That Were Considered, but Rejected, and the Reason for Rejection:

No other less costly or less intrusive methods were identified or considered for the purpose of these regulations.