



July 4, 2018

Ms. ToniAnn Petrella-Diaz
Acting Executive Director
New Jersey Occupational Therapy Advisory Council
P.O. Box 45037
Newark, NJ 07101

RE: Proposed amendments to NJAC 13:44K

Dear Ms. Petrella-Diaz:

The New Jersey Occupational Therapy Association (NJOTA) is the state professional association representing the interests of occupational therapists, occupational therapy assistants, and students of occupational therapy in New Jersey. The practice of occupational therapy is science-driven, evidence-based, and enables people of all ages to live life to its fullest by promoting health and minimizing the functional effects of illness, injury, and disability. NJOTA supports the New Jersey Occupational Therapy Advisory Council in its mission to protect the health, safety, and welfare of New Jersey consumers and the authority of the Board to create regulations to achieve this mission.

On behalf of NJOTA, we are writing to provide comment on the Board's proposed rule amendments. NJOTA supports the new Jurisprudence Orientation requirement as well as the new licensure by reciprocity process. However, we have concerns about supervision provisions and the process by which a veteran who has not graduated from an ACOTE-accredited program may become licensed.

Jurisprudence Orientation

NJOTA supports the new requirement that new applicants and licensees renewing their license pass a jurisprudence examination. We believe it is the ethical responsibility of all New Jersey occupational therapists and occupational therapy assistants, aides, and students to educate himself or herself of the laws and regulations in place in the state and to follow them. NJOTA believes this proposed rule is in the best interest of the profession and of the public who are consumers of occupational therapy services.

Licensure by reciprocity

NJOTA also supports the Board's new proposed licensure by reciprocity process, which would allow an occupational therapist or occupational therapy assistant licensed in another state to become licensed in New Jersey, provided certain qualifications are met. This is a process that occupational licensure boards across the country are implementing as a result of the increasing number of licensees who travel across state lines to provide services and as licensure boards across the country are being encouraged to ensure that licensure does not create a barrier to employment. We feel that the process laid out in the rule by the Advisory Council is fair and will ensure that qualified occupational therapists and occupational therapy assistants will be able to work in New Jersey and provide high-quality services.

Foreign-trained applicants

NJOTA, along with AOTA, supports a pathway to licensure for foreign-trained applicants. AOTA has worked with other state licensure boards around the country on putting in place a statutory process for foreign-trained applicants.

However, it should be noted that National Board for Certification in Occupational Therapy (NBCOT) does not determine whether or not a foreign-trained applicant's credentials are equivalent to those for individuals educated in the United States. According to their website, NBCOT determines whether or not an applicant's qualifications are comparable: "Education and fieldwork must be deemed comparable to current U.S. entry-level educational standards."

Supervision

NJOTA is concerned with the current requirement in NJAC 13:44K-6.3(b), which is being retained in the rule proposal, to require that a designated supervisor provide close supervision for any occupational therapy assistant who has practiced occupational therapy for less than 1 year on a full-time basis.

The definition of "close supervision" currently in NJAC 13:44K-1.2 is as follows:

1. "Close supervision" means daily, face-to-face contact with and frequent observation of the performance of the individual at the location where he or she is rendering services;

This requirement for daily, face-to-face contact is burdensome both for the occupational therapist and the occupational therapy assistant. It detracts from the occupational therapist's ability to provide services to their own clients and also makes supervision of occupational therapy assistants in rural areas more challenging. The additional unintended consequences of this rule may be barriers to employment, increased costs to provide care and reduced the ability of consumers to access needed occupational therapy services.

Additionally, current ACOTE standard C.1.16 allows for a lower degree of supervision for OTA students completing their Level II fieldwork:

"Initially, supervision should be direct and then decrease to less direct supervision as appropriate for the setting, the severity of the client's condition, and the ability of the student."

This, combined with the current requirement, sets up a situation where the licensed OTA is more closely supervised for 1 full year than they were at the end of their Level II fieldwork placement.

NJOTA cites AOTA's *Guidelines for Supervision, Roles, and Responsibilities During the Delivery of Occupational Therapy Services* (2014) which states supervision is an ongoing, collaborative process between the occupational therapist and the occupational therapy assistant. It is the responsibility of the occupational therapist to provide the appropriate level of supervision to the occupational therapy assistant, based on several varying factors:

- a. Complexity of client needs,
- b. Number and diversity of clients,
- c. Knowledge and skill level of the occupational therapist and the occupational therapy assistant,
- d. Type of practice setting,
- e. Requirements of the practice setting, and
- f. Other regulatory requirements.

Supervision may also be more frequent than the minimum required in regulation due to:

- a. The needs of the client and the occupational therapy process are complex and changing,
- b. The practice setting provides occupational therapy services to a large number of clients with diverse needs, or
- c. The occupational therapist and occupational therapy assistant determine that additional supervision is necessary to ensure safe and effective delivery of occupational therapy services.

Thus, it cannot be assumed that all occupational therapy assistants require close supervision, as defined in the current rule. Some occupational therapy assistants may require daily, face-to-face supervision and others may not. In some instances, the time frame deemed necessary by the occupational therapist and occupational therapy assistant during the supervisory process may vary significantly from the rule's requirement. NJOTA believes it is responsibility of both parties to reach a supervisory arrangement that ensures the safe provision of occupational therapy services to clients, but ultimately the responsibility for supervision falls on the occupational therapist as the designated supervisor.

Recommendation

We recommend striking this requirement as it appears in the current rule NJAC 13:44K-5.5(e)(2)(i) and in the newly proposed rule NJAC 13:44K-6.3(b).

NBCOT certification for veterans

NJOTA supports efforts to provide a pathway for veterans to obtain a license, provided that the process for demonstrating that the veteran's education, experience, and training is substantially

equivalent to the requirements for non-veteran applicants and does not conflict with current requirements for non-veteran applicants. NJOTA is concerned about the process by which a veteran of the U.S. military would become licensed by demonstrating that their education gained in the military is equivalent to what is required for non-veterans.

According to the proposed rule 13:44K – 2.2(b)3, a veteran who demonstrates that their education, experience, and training gained in the military is substantially equivalent to the current requirements for licensure must also comply “with all other requirements for licensure, including successfully passing the certification examination administered by the National Board for Certification in Occupational Therapy (NBCOT), or its predecessors as set forth in NJAC 13:44K-2.1(a).”

NBCOT requires graduation from an ACOTE-accredited program in order to be deemed eligible to sit for the certification examination. Our concern is in regards to how one who has not graduated from an ACOTE-accredited program, but whose education has been deemed substantially equivalent, is determined to be eligible to sit for the NBCOT examination. By the Board’s own statement, it has no authority to require NBCOT, which is a private entity, to determine that veterans applying for licensure under this new process are eligible to sit for the certification examination.

On behalf of NJOTA, we wish to thank you for the opportunity to comment on the proposed changes. We look forward to discussing the proposed changes at an upcoming Board meeting. Please contact me at management@njota.org or 732-968-5038 if you have questions or need additional information about NJOTA’s position.

Sincerely,



Stephanie Franklin-Cosgrove, OTR, CHT
NJOTA, Legislation Co-Chair



Miriam Manela, OTR
NJOTA, Legislation Co-Chair