

Authority G.S. 90-30.1; 90-39; 90-48.

SECTION .0500 - RENEWAL OF PERMITS

21 NCAC 16Q .0501 ANNUAL RENEWAL REQUIRED

(a) General anesthesia and all sedation permits shall be renewed by the Board annually. Such renewal shall be accomplished in conjunction with the license renewal process, and applications for permits shall be made at the same time as applications for renewal of licenses. A one hundred dollar (\$100.00) annual permit renewal fee shall be paid at the time of renewal: renewal and is in addition to the annual license renewal fee.

(b) All sedation permits shall be subject to the same renewal deadlines as are dental practice licenses, in accordance with G.S. 90-31. If the permit renewal application is not received by the date specified in G.S. 90-31, continued administration of general anesthesia or any level of conscious sedation shall be unlawful and shall subject the dentist to the penalties prescribed by Section .0700 of this Subchapter.

(c) As a condition for renewal of the general anesthesia permit, permit or itinerate general anesthesia permit, the permit holder shall meet the requirements of 21 NCAC 16Q .0202 Rule .0207 of this Subchapter, and document current, successful completion of advanced cardiac life support (ACLS) training, or its age-specific equivalent or other equivalent course, and auxiliary personnel shall document annual, successful completion of basic life support (BLS) training.

(d) As a condition for renewal of the moderate conscious sedation permit or itinerate moderate pediatric conscious sedation permit, the permit holder shall meet the requirements of 21 NCAC 16Q .0302 and Rule .0305 of this Subchapter.

- (1) ~~document annual, successful completion of BLS training and obtain three hours of continuing education each year in one or more of the following areas, which may be counted toward fulfillment of the continuing education required each calendar year for license renewal:~~
 - (A) ~~sedation;~~
 - (B) ~~medical emergencies;~~
 - (C) ~~monitoring IV sedation and the use of monitoring equipment;~~
 - (D) ~~pharmacology of drugs and agents used in IV sedation;~~
 - (E) ~~physical evaluation, risk assessment, or behavioral management;~~
 - (F) ~~audit ACLS/Pediatric Advanced Life Support (PALS) courses; and~~
 - (G) ~~airway management; or~~
- (2) ~~document current, successful completion of ACLS training or its age-specific equivalent, or other equivalent course and annual successful completion of BLS.~~

(e) As a condition for renewal of the moderate pediatric conscious sedation permit holders or itinerate moderate pediatric conscious sedation permit, the permit holder shall meet the requirements of Rule .0407 of this Subchapter. must have current PALS at all times.

(f) As a condition for renewal of the minimal conscious sedation permit ~~and the moderate conscious sedation permit limited to oral routes and nitrous oxide inhalation~~, the permit holder shall meet the requirements of 16Q .0402 Rule .0402 of this Subchapter and shall document annual, successful completion of BLS training and obtain six hours of continuing education every two years in one or more of the following areas, which may be counted toward fulfillment of the continuing education required each calendar year for license renewal:

- (1) pediatric or adult sedation;
- (2) medical emergencies;
- (3) monitoring sedation and the use of monitoring equipment;
- (4) pharmacology of drugs and agents used in sedation;
- (5) physical evaluation, risk assessment, or behavioral management; or
- (6) audit ACLS/PALS courses; and
- (7) airway management.

(g) Any dentist who fails to renew a general anesthesia or sedation permit on or before March 31 of each year must complete a reinstatement application, pay the one hundred dollar (\$100.00) renewal fee and a ~~one hundred fifty dollar (\$100.00) (\$50.00)~~ penalty and comply with all conditions for renewal set out in this Rule for the permit sought. Dentists whose anesthesia or sedation permits have been lapsed for more than 12 calendar months must pass a an evaluation and facilities inspection and must pay the application evaluation and inspection fee set forth in the applicable rules of this Subchapter as part of the reinstatement process.

Authority G.S. 90-28; 90-30.1; 90-48.

21 NCAC 16Q .0502 PAYMENT OF FEES

Authority G.S. 90-28; 90-30.1.

21 NCAC 16Q .0503 INSPECTION AUTHORIZED

Incident to the renewal of an anesthesia or sedation permit or any itinerant permit, for cause or routinely at reasonable time intervals in order to ensure compliance, the Board may require an on-site inspection of the dentist's facility, equipment, ~~personnel~~ personnel, and procedures. ~~Such~~ The inspection shall be conducted in accordance with ~~Rules .0205, .0303, and .0404~~ the applicable rules of this Subchapter.

Authority G.S. 90-28; 90-30.1.

CHAPTER 38 – BOARD OF OCCUPATIONAL THERAPY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Occupational Therapy intends to amend the rules cited as 21 NCAC 38 .0103, .0803, .0903, and .0905.

Link to agency website pursuant to G.S. 150B-19.1(c): http://www.ncbot.org/OTpages/news_and_announcements.html

Proposed Effective Date: July 1, 2018

Public Hearing:

Date: March 19, 2018

Time: 11:00 a.m.

Location: Wells Fargo Capital Center, 13th Floor Conference Room, 150 Fayetteville Street, Raleigh, NC 27601

Reason for Proposed Action: The amendments to Rules .0103, .0903 and .0905 are being submitted to clarify supervision changes. The amendment to Rule .0803 is being submitted to clarify continuing competence activity pre-approval requirements.

Comments may be submitted to: Charles P. Wilkins, P.O. Box 2280, Raleigh, NC 27602; phone (919) 832-1380; email cwilkins@bws-law.com

Comment period ends: April 16, 2018

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- State funds affected
- Environmental permitting of DOT affected
- Analysis submitted to Board of Transportation
- Local funds affected
- Substantial economic impact (≥\$1,000,000)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4

SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS

21 NCAC 38 .0103 DEFINITIONS

The definitions in G.S. 90-270.67 apply to this Chapter. The following definitions also apply to the Chapter:

- (1) "Activities of daily living" means self-care activities.
- (2) "Assessment" means the specific tools or instruments that are used during the evaluation process.
- (3) "Client" means a person, group, program, organization, or community for whom the

occupational therapy practitioner is providing services.

- (4) "Entry-level" means a person who has no experience in a specific position, such as a new graduate, a person new to the position, or a person in a new setting with no previous experience in that area of practice.
- (5) "Evaluation" means the process of obtaining and interpreting data necessary for intervention. This includes planning for and documenting the evaluation process and results.
- (6) "Instrumental activities of daily living" means multi-step activities to care for self and others, such as household management, financial management and childcare.
- (7) "Intervention" means treatment.
- (8) "Intervention plan" is the program established by the occupational therapist for the delivery of occupational therapy services. It may also be referred to as treatment plan, individualized education plan (IEP), individualized family service plan (IFSP), plan of care, or other terminology as determined by the occupational therapy service delivery setting.
- (9) "Level I Fieldwork" provides introductory level clinical training opportunities.
- (10) "Level II Fieldwork" provides clinical training in preparation for entry-level practice.
- (11) "Neglect of duty" occurs when a Board member fails to attend a majority of the official meetings of the Board within any 12 month period.
- (12) "Occupational Therapy", as defined in G.S. 90-270.67(4), may include evaluation of activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, leisure, and social participation.
- (13) "Occupational Therapy evaluation, treatment, and consultation" include the following:
 - (a) remediation or restitution of performance abilities that are limited due to impairment in biological, physiological, psychosocial and developmental process;
 - (b) adaptation of skills, process or environment, or the teachings of compensatory techniques in order to enhance performance;
 - (c) disability prevention methods and techniques which facilitate the development or safe application of performance skills;
 - (d) promotion of health and wellness to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction; and
 - (e) interpretation of the physical, cognitive, psychosocial, sensory, and

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- 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.
- (14) "Occupational therapy practitioner" means an individual currently licensed by the Board as an occupational therapist or an occupational therapy assistant.
- (15) "Occupational therapy services" include the following:
- (a) Methods or strategies selected to direct the process of interventions such as:
 - (i) Establishment, remediation, or restoration of a skill or ability that has not yet developed or is impaired;
 - (ii) Compensation, modification, or adaptation of activity or environment to enhance performance;
 - (iii) Maintenance and enhancement of capabilities without which performance in everyday life activities would decline;
 - (iv) Health promotion and wellness to enable or enhance performance in everyday life activities; and
 - (v) Prevention of barriers to performance, including disability prevention.
 - (b) Evaluation of factors affecting activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, leisure, and social participation, including:
 - (i) Client factors, including body functions (such as neuromuscular, sensory, visual, perceptual, cognitive) and body structures (such as cardiovascular, digestive, integumentary, genitourinary systems);
 - (ii) Habits, routines, roles, and behavior patterns;
 - (iii) Cultural, physical, environmental, social, and spiritual contexts and activity demands that affect performance; and
 - (iv) Performance skills, including motor, process, and communication/interaction skills.
 - (c) Interventions and procedures to promote or enhance safety and performance in activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, leisure and social participation, including:
 - (i) Therapeutic use of occupations, exercises, and activities;
 - (ii) Training in self-care, self-management, home management, and community/work reintegration;
 - (iii) Development, remediation, or compensation of physical, cognitive, neuromuscular, sensory functions and behavioral skills;
 - (iv) Therapeutic use of self, including one's personality, insights, perceptions, and judgments, as part of the therapeutic process;
 - (v) Education and training of individuals, including family members, caregivers, and others;
 - (vi) Care coordination, case management, and transition services;
 - (vii) Consultative services to groups, programs, organizations, or communities;
 - (viii) Modification of home, work school or community environments and adaptation of processes, including the application of ergonomic principles;
 - (ix) Assessment, design, fabrication, application, fitting, and training in assistive technology, adaptive devices, and orthotic devices, and training in the use of prosthetic devices;
 - (x) Assessment, recommendation, and training in techniques to enhance functional mobility, including wheelchair management;
 - (xi) Driver rehabilitation and community mobility;

- (xii) Management of feeding, eating, and swallowing to enable eating and feeding performance; and
 - (xiii) Application of physical agent modalities, and use of a range of specific therapeutic procedures to enhance performance skills.
- (16) "Occupational therapy student" means an individual currently enrolled in an occupational therapist or occupational therapy assistant program accredited by the Accreditation Council for Occupational Therapy Education (ACOTE).
- (17) "Practice Act" refers to the North Carolina Occupational Therapy Practice Act found in G.S. 90-270.65 et. seq.
- (18) "Screening" means obtaining and reviewing data relevant to a potential client to determine the need for further evaluation and intervention.
- (19) "Service Competency" is the ability to provide occupational therapy services in a safe and effective manner. It implies that two practitioners can perform the same or equivalent procedure and obtain the same result.
- (20) "Skilled occupational" therapy services when rendered by an occupational therapist or occupational therapy assistant means functions that require the exercise of professional occupational therapy judgment, including the interpretation of referrals, screening, assessment, evaluation, development or modification of intervention plans, implementation of intervention, reassessment, or discharge planning.
- (21) "Supervision" is the process by which two or more people participate in joint effort to establish, maintain and elevate a level of performance to ensure the safety and welfare of clients during the provision of occupational therapy. ~~A variety of types and methods of supervision may be used. Methods of supervision~~ Supervision may include direct ~~face-to-face contact~~ and indirect contact. Examples of ~~methods or types of supervision that involve face-to-face~~ direct contact include observation, modeling, co-treatment, discussions, teaching, instruction, phone conversations and video teleconferencing. Methods of observation include face-to-face, synchronous or asynchronous videoconferencing. Examples of ~~methods or types of supervision that involve~~ indirect contact include ~~phone conversations,~~ written correspondence, electronic exchanges, and other ~~methods using~~ telecommunication technology. Supervision is structured according to the supervisee's qualifications, position, level

of preparation, depth of experience and the environment within which the supervisee functions. A change in practice setting may require a change in level of supervision until service competency has been established. Levels of supervision are:

- (a) "Close supervision" requires ~~daily, direct contact at the service delivery site (where intervention plan is provided);~~ at least weekly:
 - (i) observation for a minimum of 60 minutes of occupational therapy services provided by the occupational therapy assistant; and
 - (ii) review of the occupational therapy assistant's entire caseload, observations and delegated services through direct or indirect contact.
 - (b) "General supervision" requires at least monthly ~~direct contact, with supervision available as needed by other methods, or indirect contact.~~
 - (c) "Direct supervision" of unlicensed personnel and volunteers means the Occupational Therapy supervisor must be within audible and visual range of the client and unlicensed personnel and available for immediate physical intervention. ~~Direct supervision is required for unlicensed personnel. Videoconferencing is not allowed for direct supervision.~~
- (22) "Unlicensed personnel" means individuals within an occupational therapy setting who provide supportive services to the occupational therapist and the occupational therapy assistant and who function only under the guidance, responsibility, and supervision of the licensed occupational therapist or occupational therapy assistant to provide only specifically selected client-related or non-client related tasks for which the unlicensed personnel has been trained and has demonstrated competence.

Authority G.S. 90-270.67; 90-270.69(4).

SECTION .0800 – CONTINUING COMPETENCE ACTIVITY

21 NCAC 38 .0803 APPROVAL OF ACTIVITIES FOR MAINTAINING CONTINUING COMPETENCE

- (a) Provided that the activities are consistent with the provisions of rules in this Section, the Board shall grant pre-approval to:
 - (1) Continuing competence activities sponsored or approved by the North Carolina Occupational Therapy Association,

- (2) Continuing competence activities sponsored or approved by the American Occupational Therapy Association,
- (3) Continuing competence activities sponsored by AOTA approved providers.

~~(b) A provider who wishes to obtain Board approval of activities for maintaining continuing competence, consistent with Rule .0804 of this Section, shall submit to the Board, at least 90 days in advance of the program, the following:~~

- ~~(1) course description;~~
- ~~(2) learning outcomes;~~
- ~~(3) target audience;~~
- ~~(4) content focus;~~
- ~~(5) agenda for the activity;~~
- ~~(6) amount of contact hours;~~
- ~~(7) qualifications for the presenter(s);~~
- ~~(8) sample documentation for demonstrating satisfactory completion by course participants such as certificate of completion.~~

~~(c) Upon review of the completed application, the Board shall notify the provider as to whether or not the program has been approved.~~

~~(d)~~(b) A provider of a continuing competence activity shall furnish documentation for demonstrating completion to all participants, specifying the following information:

- (1) name of the participant;
- (2) name of the provider;
- (3) dates of the activity and completion;
- (4) title and location of the activity;
- (5) number of contact hours; and
- (6) signature of the provider or representative.

Authority G.S. 90-270.69; 90-270.75(a).

SECTION .0900 - SUPERVISION, SUPERVISORY ROLES, AND CLINICAL RESPONSIBILITIES OF OCCUPATIONAL THERAPIST AND OCCUPATIONAL THERAPY ASSISTANTS

21 NCAC 38 .0903 TYPES OF SUPERVISION

Occupational therapy assistants at all levels require supervision by an occupational therapist. The specific frequency, methods, and content of supervision may vary by practice setting and are dependent on the complexity of client needs, number and diversity of clients, demonstrated service competency of the occupational therapist and the occupational therapy assistant, type of practice setting, requirements of the practice setting, and other regulatory requirements. Based on this the following apply:

- (1) Occupational therapy assistants with less than one year experience ~~and occupational therapy assistants new to a particular practice setting~~ require close supervision;
- (2) Occupational therapy assistants with more than one year of experience require general supervision; and
- (3) Supervision that is more frequent than the minimum level required by the practice setting or regulatory agencies is necessary when the needs of the client and the occupational therapy

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

Authority G.S. 90-270.69.

21 NCAC 38 .0905 DELINEATION OF CLINICAL RESPONSIBILITIES

Regardless of the setting in which occupational therapy services are delivered, the occupational therapist and the occupational therapy assistant have the following responsibilities during evaluation, intervention, and outcomes evaluation:

- (1) Evaluations:
 - (a) The occupational therapist shall;
 - (i) Direct the evaluation process;
 - (ii) Determine the need for services;
 - (iii) Define the problems within the domain of occupational therapy that need to be addressed;
 - (iv) Determine the client's goals and priorities in collaboration with the occupational therapy assistant and the client or caregiver;
 - (v) Interpret the information provided by the occupational therapy assistant and integrate that information into the evaluation decision-making process;
 - (vi) Establish intervention priorities;
 - (vii) Determine specific future assessment needs;
 - (viii) Determine specific assessment tasks that can be delegated to the occupational therapy assistant; and
 - (ix) Initiate and complete the evaluation, interpret the data, and develop the intervention plan in collaboration with the occupational therapy assistant.
 - (b) The occupational therapy assistant may contribute to the evaluation process by implementing specifically delegated assessments for which service competency has been established.
- (2) Intervention Planning:

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- (a) The occupational therapist shall develop the occupational therapy intervention plan. The plan shall be developed collaboratively with the occupational therapy assistant and the client or caregiver; and
 - (b) The occupational therapy assistant may provide input into the intervention plan.
- (3) Intervention implementation:
- (a) The occupational therapist:
 - (i) Shall implement the occupational therapy intervention;
 - (ii) May delegate aspects of the occupational therapy intervention to the occupational therapy assistant depending on the occupational therapy assistant's service competency; and
 - (iii) Shall supervise all aspects of intervention delegated to the occupational therapy assistant.
 - (b) The occupational therapy assistant shall implement delegated aspects of intervention in which the occupational therapy assistant has established service competency; and
 - (c) Occupational therapists or occupational therapy assistants shall not be subject to disciplinary action by the Board for refusing to delegate or refusing to provide the required training for delegation, if the occupational therapist or occupational therapy assistant determines that delegation may compromise client safety.
- (4) Intervention review:
- (a) The occupational therapist shall meet with each client who has been assigned to an occupational therapy assistant to further assess the client, to evaluate intervention, and, if necessary, to modify the individual's intervention plan. The occupational therapy assistant may be present at this meeting;
 - (b) The occupational therapist shall determine the need for continuing or discontinuing services; and
 - (c) The occupational therapy assistant shall contribute to the process of determining continuing or discontinuing services by providing information about the client's response to intervention to assist with the occupational therapist's decision making.
- (5) Documentation:
- (a) The occupational therapy practitioner shall document each evaluation, intervention and discharge plan recognizing the unique requirements of specific practice settings, payors, and service delivery models. Documentation shall include the following elements:
 - (i) Client name or identifiable information;
 - (ii) Signature with occupational therapist or occupational therapy assistant designation of the occupational therapy practitioner who performed the service;
 - (iii) Date of the evaluation, intervention, or discharge plan;
 - (iv) Objective and measurable description of contact or intervention and client response; and
 - (v) Length of time of intervention session or evaluation.
 - (b) The occupational therapist shall determine the overall completion of the evaluation, intervention, or discharge plan; and
 - (c) The occupational therapy assistant shall:
 - (i) Document intervention, intervention response and outcome; and
 - (ii) Document client's level of function at discharge.
- (6) Discharge:
- (a) The occupational therapist shall determine the client's discharge from occupational therapy services; and
 - (b) The occupational therapy assistant shall:
 - (i) Report data for discharge summary; and
 - (ii) Formulate discharge or follow-up plans under the supervision of the occupational therapist.
- (7) Outcome evaluation:
- (a) The occupational therapist is responsible for the selection, measurement, and interpretation of outcomes that are related to the client's ability to engage in occupations; and

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- (b) The occupational therapy assistant must be knowledgeable about the client's targeted occupational therapy outcome and provide information relating to outcome achievement.
- (8) Supervision of occupational therapy students:
 - (a) An occupational therapy practitioner shall comply with Accreditation Council for Occupational Therapy Education (ACOTE) requirements for experience when supervising Level II fieldwork occupational therapist and occupational therapy assistant students, which ACOTE requirements, including subsequent amendments and editions, are incorporated by reference. Copies of the incorporated material are available for inspection at the Board office and are available for purchase for five dollars (\$5.00);
 - (b) The occupational therapist may supervise Level I and Level II fieldwork occupational therapist and occupational therapy assistant students; and
- (c) The occupational therapy assistant may:
 - (i) Supervise Level I occupational therapist or occupational therapy assistant students;
 - (ii) Supervise Level II occupational therapy assistant students; and
 - (iii) Participate in the supervision of Level II occupational therapist students under the direction and guidance of the supervising occupational therapist.
- (9) Supervision of unlicensed personnel and volunteers. Direct supervision is required for unlicensed personnel. Unlicensed personnel or volunteers may be supervised by occupational therapists or occupational therapy assistants.

Authority G.S. 90-270.69.

