

Questions 11 – 15 deal with Unprofessional conduct. Citations: ORS 675.210, ORS 675.300; ORS 675.320; ORS 675.336; OAR 339-010-0018; 339-010-0018; 339-010-0020

These laws and rules require licensees to report changes to contact information, legal names, crimes, and defines what is unprofessional conduct and the Board's role in investigations.

675.210 Definitions for ORS 675.210 to 675.340. As used in ORS 675.210 to 675.340, unless the context requires otherwise:

(1) "Board" means the Occupational Therapy Licensing Board.

(2) "Occupational therapist" means a person licensed to practice occupational therapy under ORS 675.210 to 675.340.

(3) "Occupational therapy" means the analysis and use of purposeful activity with individuals who are limited by physical injury or illness, developmental or learning disabilities, psychosocial dysfunctions or the aging process in order to maximize independence, prevent disability and maintain health. The practice of occupational therapy encompasses evaluation, treatment and consultation. Specific occupational therapy services includes but is not limited to: Activities of daily living (ADL); perceptual motor and sensory integrated activity; development of work and leisure skills; the design, fabrication or application of selected orthotics or prosthetic devices; the use of specifically designed crafts; guidance in the selection and use of adaptive equipment; exercises to enhance functional performance; prevocational evaluation and training; performing and interpreting manual muscle and range of motion test; and appraisal and adaptation of environments for people with mental and physical disabilities. The services are provided individually, in groups, or through social systems.

(4) "Occupational therapy assistant" means a person **licensed to assist in the practice of occupational therapy under the supervision of an occupational therapist.**

(5) "Person" means any individual, partnership, unincorporated association or corporate body, except only an individual may be licensed under ORS 675.210 to 675.340.

675.300 Grounds and procedures for denial, refusal to renew, suspension or revocation of license; confidentiality of information. (1) The Occupational Therapy Licensing Board **may deny, suspend, revoke or refuse to renew a license or may impose probationary conditions** where the licensee or applicant has:

(a) Committed unprofessional conduct as defined by the standards established by the board;

(b) Obtained or attempted to obtain a license by means of fraud, misrepresentation or concealment of material facts;

(c) Violated any provision of ORS 675.210 to 675.340 or any order or rule adopted by the board; or

(d) Committed gross negligence or incompetence in the performance of professional duties.

(2) The board may **suspend or revoke the license of any person licensed under ORS 675.210 to 675.340 if the licensee has an impairment as defined in ORS 676.303.**

(3) When the board proposes to refuse to issue or renew a license or proposes to revoke or suspend a license, opportunity for hearing shall be accorded as provided in ORS chapter 183.

(4) Judicial review of orders under subsection (3) of this section shall be conducted in accordance with ORS chapter 183.

(5) Information that the board obtains as part of an investigation into licensee or applicant conduct or as part of a contested case proceeding, consent order or stipulated agreement involving licensee or applicant conduct is confidential as provided under ORS 676.175.

675.320 Powers of board; fees; rules. The Occupational Therapy Licensing Board shall have the following powers in addition to powers otherwise granted under ORS 675.210 to 675.340 or necessary to carry out the provisions of ORS 675.210 to 675.340:

(1) To organize and elect from its membership a chairperson and vice chairperson, each of whom shall hold office for one year or until the election and qualification of a successor.

(2) To authorize all necessary disbursements to carry out the provisions of ORS 675.210 to 675.340, including, but not limited to, payment for necessary supplies, office equipment and investigations and such other expenditures as provided for in ORS 675.210 to 675.340.

(3) **To suspend, revoke or invalidate licenses for nonpayment of renewal fees.**

(4) To restore licenses that have been suspended, revoked or voided.

(5) To adopt license and license renewal fees under ORS 675.270, 675.280 and 675.290. The fees must be approved by the Oregon Department of Administrative Services and may not exceed the cost of administering ORS 675.210 to 675.340.

(6) To collect license applications and renewal fees.

(7) **To investigate alleged violations of ORS 675.210 to 675.340.**

(8) To enforce the provisions of ORS 675.210 to 675.340 and generally supervise the practice of occupational therapy in this state.

(9) To make and enforce rules in accordance with ORS chapter 183 for the procedure of the board and for regulating the practice of occupational therapy not inconsistent with the provisions of ORS 675.210 to 675.340.

(10) To establish minimum requirements for continuing education to be complied with by all licensees under ORS 675.210 to 675.340.

(11) To establish minimum requirements for limited permit to be complied with by all applicants prior to issuance of limited permit. A limited permit shall be issued to a person at the discretion of the board upon application and payment of a permit fee of \$25.

(12) To establish official abbreviations that may be used, under ORS 675.220 (1), by persons licensed as occupational therapists or occupational therapy assistants.

(13) To establish minimum requirements for supervised field work necessary for applicants under ORS 675.240 or 675.250.

(14) To adopt rules that define the scope of the practice of occupational therapy and that reflect national standards for the practice of occupational therapy.

339-010-0018 Name, Address and Telephone Number of Record

(1) Every applicant, licensee and limited permit holder shall keep on file with the Board their:

(a) Legal name;

(b) Home address which must include a residential address and may also include a post office box number;

(c) A current contact telephone number and electronic mail address, if available;

(d) The name, address and telephone number of their current employer or place of business;

(e) A current designated mailing address.

(2) Whenever an applicant, licensee or limited permit holder legally changes their name, they shall notify the Board in writing within 30 days of the name change and provide the legal documentation of the name change.

(3) Whenever an applicant, licensee or limited permit holder changes their home address, their employer or place of business, their contact telephone number, electronic mail address or their mailing address, they shall notify the Board in writing within 30 days. Written notification may be by regular mail, electronic mail, facsimile or through online submission.

(4) Unless requested for a public health or state health planning purpose or unless extenuating circumstances exist, the Board will withhold the personal electronic mail, address, home address, and personal telephone number of a licensee.

339-010-0020 Unprofessional Conduct

(1) Unprofessional conduct relating to patient/client safety, integrity and welfare includes:

(a) Intentionally harassing, abusing, or intimidating a patient/client, either physically or verbally;

(b) Intentionally divulging, without patient/client consent, any information gained in the patient relationship other than what is required by staff or team for treatment;

(c) Engaging in assault and/or battery of patient/client;

(d) Failing to respect the dignity and rights of patient/client, regardless of social or economic status, personal attributes or nature of health problems;

(e) Engaging in sexual improprieties or sexual contact with patient/client;

(f) Offering to refer or referring a patient/client to a third person for the purpose of receiving a fee or other consideration from the third person or receiving a fee from a third person for offering to refer or referring a patient/client to a third person;

(g) Taking property of patient/client without consent.

(h) Failing to follow principles and related standards of conduct as defined in the Occupational Therapy Code of Ethics, by the American Occupational Therapy Association, to the extent they do not conflict with ORS 675.210 through 675.340.

(2) Unprofessional conduct relating to professional competency includes:

(a) Engaging in any professional activities for which licensee is not currently qualified;

(b) Failing to maintain competency;

(c) Failing to provide a comprehensive service that is compatible with current research and within an ethical and professional framework;

(d) Failing to obtain a physician's referral in situations where an OT is using a modality not specifically defined in ORS 675.210(3);

(e) Failing to provide professional occupational therapy based on evaluation of patient's/client's needs and appropriate treatment procedures;

(f) Using an occupational therapy aide in violation of the law or Board rules regarding occupational therapy.

(3) Unprofessional conduct relating to the Board includes:

(a) Practicing occupational therapy without a current Oregon license;

(b) Failing to renew license in a timely manner;

(c) Failing to provide the Board with any documents requested by the Board;

(d) Failing to answer truthfully and completely any question asked by the Board;

(e) Failing to provide evidence of competency when requested;

(f) Violating the Practice Act, Board rules or Board Orders;

(g) Failing to cooperate with Board investigations.

(4) Unprofessional conduct relating to impaired function includes:

(a) Engaging in or assisting in the practice of occupational therapy while impaired by alcohol or other drugs;

(b) Use of alcohol or other drugs in a manner that creates a risk of harm to patient/client;

(c) Engaging in the practice of occupational therapy while one's ability to practice is impaired by reason of physical or mental disability or disease.

(5) Unprofessional conduct relating to federal or state law or rules:

(a) Intentionally making or filing a false or misleading report or failing to file a report when it is required by law or third person or intentionally obstructing or attempting to obstruct another person from filing such report;

(b) Obtaining or attempting to obtain compensation by misrepresentation;

(c) Engaging in assault and/or battery of any person;

(d) Conviction of a crime or engaging in any act which the Board determines substantially relates to the practice of occupational therapy or indicates an inability to safely and proficiently engage in the practice of occupational therapy; or failing to notify the Board within 10 working days of a conviction of a misdemeanor, or an arrest for or conviction of a felony;

(e) Disciplinary actions imposed by another professional licensing body based on acts by the licensee similar to acts giving rise to discipline under the Practice Act or rules of the Board;

(f) Engaging in false, misleading or deceptive advertising.

(g) Fails to notify the appropriate licensing board of any conduct by another licensed medical provider when the licensee has reasonable cause to believe that the medical provider has engaged in prohibited or unprofessional conduct. As used in this subparagraph, “prohibited conduct” means a criminal act against a patient or a criminal act that creates a risk of harm to a patient and “unprofessional conduct” means conduct unbecoming a medical provider or detrimental to the best interests of the public, including conduct contrary to recognized standards of ethics of the medical provider’s profession or conduct that endangers the health, safety or welfare of a patient.

(h) Fails to notify the Board of a change in the licensee's name, address, contact telephone number or place of employment or business as required by OAR 339-010-0018.

(6) Unprofessional Conduct in a Declared Emergency:

(a) Unprofessional conduct during a declared emergency includes failing to comply with any applicable requirement of a Governor’s Executive Orders, including but not limited to:

(A) Providing occupational therapy services when permitted, but without wearing Personal Protective Equipment (PPE) when PPE is required;

(B) Providing occupational therapy services at a business required to be closed;

(b) Unprofessional conduct during a declared emergency includes failing to comply with applicable Oregon Health Authority (OHA) guidance implementing a Governor’s Executive Orders, including but not limited to failing to follow guidance on providing occupational therapy services in person.

(c) No disciplinary action or penalty action shall be taken under this section if the Executive Order provision or OHA guidance alleged to have been violated is not in effect at the time of the alleged violation.

675.336 Civil penalties. (1) In addition to any other liability or penalty provided by law, the Occupational Therapy Licensing Board may impose a **civil penalty** on a person who violates the provisions of ORS 675.210 to 675.340 in an amount **not to exceed \$1,000 for each violation**.

(2) The board shall impose civil penalties under this section in the manner provided by ORS 183.745.

(3) All penalties recovered under this section shall be paid into the Occupational Therapy Licensing Board Account established in ORS 675.330 and shall be used only for the administration and enforcement of ORS 675.210 to 675.340.