

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6507, 7905 and 7906 of the Education Law.

1. Section 76.4 of the Regulations of the Commissioner of Education is amended, effective July 15, 2012, as follows:

(a) ...

(b) Limited permits may be renewed once for a period not to exceed one year at the discretion of the department because of personal or family illness or other extenuating circumstances which prevented the permittee from becoming licensed[, provided that the permittee has not failed the licensing examination in occupational therapy].

2. Section 76.5 of the Regulations of the Commissioner of Education is repealed, and 76.7 of the Regulations of the Commissioner of Education is renumbered 76.5, effective July 15, 2012.

3. Section 76.6 of the Regulations of the Commissioner of Education is renumbered 76.8, and new sections 76.6, 76.7, and 76.9, are added, effective July 15, 2012, to read as follows:

76.6 Definition of occupational therapy assistant practice and the use of the title occupational therapy assistant.

(a) An "occupational therapy assistant" shall mean a person authorized in accordance with this Part who provides occupational therapy services under the direction and supervision of an occupational therapist or licensed physician and performs client related activities assigned by the supervising occupational therapist or licensed physician. Only a person authorized under this Part shall participate in the practice of occupational therapy as an occupational therapy assistant, and only a person authorized under this Part shall use the title "occupational therapy assistant."

(b) As used in this section, client related activities shall mean:

(1) contributing to the evaluation of a client by gathering data, reporting observations and implementing assessments delegated by the supervising occupational therapist or licensed physician;

(2) consulting with the supervising occupational therapist or licensed physician in order to assist him or her in making determinations related to the treatment plan, modification of client programs or termination of a client's treatment;

(3) the utilization of a program of purposeful activities, a treatment program, and/or consultation with the client, family, caregiver, or other health care or education providers, in keeping with the treatment plan and under the direction of the supervising occupational therapist or licensed physician;

(4) the use of treatment modalities and techniques that are based on approaches taught in an occupational therapy assistant educational program registered by the Department or accredited by a national accreditation agency which is satisfactory to the Department, and that the occupational therapy assistant has demonstrated to the occupational therapist or licensed physician that he or she is competent to use; or

(5) the immediate suspension of any treatment intervention that appears harmful to the client and immediate notification of the occupational therapist or licensed physician.

76.7 Requirements for authorization as an occupational therapy assistant.

To qualify for authorization as an occupational therapy assistant pursuant to section 7906(7) of the Education Law, an applicant shall fulfill the following requirements:

(a) file an application with the Department;

(b) have received an education as follows:

(1) completion of a two-year associate degree program for occupational therapy assistants registered by the Department or accredited by a national accreditation agency which is satisfactory to the Department; or

(2) completion of a postsecondary program in occupational therapy satisfactory to the Department and of at least two years duration;

(c) have a minimum of three months clinical experience satisfactory to the state board for occupational therapy and in accordance with standards established by a national accreditation agency which is satisfactory to the Department;

(d) be at least eighteen years of age;

(e) be of good moral character as determined by the Department;

(f) register triennially with the Department in accordance with the provisions of subdivision (h) of this section, sections 6502 and 7906(8) of the Education Law, and sections 59.7 and 59.8 of this Subchapter;

(g) pay a fee for an initial license and a fee for each triennial registration period that shall be one half of the fee for initial license and for each triennial registration period established in Education law for occupational therapists; and

(h) except as otherwise provided by Education Law section 7907(2), pass an examination acceptable to the Department.

76.9 Occupational therapy assistant student exemption. To be permitted to practice as an exempt person pursuant to section 7906(4) of the Education Law, an occupational therapy assistant student shall be enrolled in a program as set forth in section 76.7(b)(1) of this Part and may work with an occupational therapy assistant who is acting as a fieldwork educator. Such student shall be directly supervised by an occupational therapist in accordance with standards established by a national accreditation agency which is satisfactory to the Department. Any such work performed by an occupational therapy assistant as a fieldwork educator shall be subject to the supervision requirements of section 76.8 of this Part.