

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

- * The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- * Please address questions regarding information on this notice to the agency.
- * The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- * The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
State Admin Rule Filing Id:		Time filed:	

		Agency No.		Rule No.		Section No.
Utah Admin. Code Ref (R no.):	R	156	-	42a	-	
Changed to Admin. Code Ref. (R no.):	R		-		-	

1.	Agency:	Commerce/Division of Occupational and Professional Licensing			
	Room no.:				
	Building:	Heber M. Wells Building			
	Street address 1:	160 East 300 South			
	Street address 2:				
	City, state, zip:	Salt Lake City UT 84111-2316			
	Mailing address 1:	PO Box 146741			
	Mailing address 2:				
	City, state, zip:	Salt Lake City UT 84114-6741			
	Contact person(s):				
	Name:	Phone:	Fax:	E-mail:	
	Rich Oborn	801-530-6767	801-530-6511	roborn@utah.gov	

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

2.	Title of rule or section (catchline):	Occupational Therapy Practice Act Rule			
3.	Type of notice:	New ___; Amendment XX; Repeal ___; Repeal and Reenact ___			
4.	Purpose of the rule or reason for the change:	The Division and the Occupational Therapy Board reviewed the rule and determined that changes need to be made.			
5.	This change is a response to comments from the Administrative Rules Review Committee.	No XX; Yes ___			
6.	Summary of the rule or change:	Throughout the rule, statute and rule citations have been updated as needed. Section 502: Paragraph (4) is being added to define as unprofessional conduct the violation of any provision of the American Occupational Therapy Association Code of Ethics, April 2005 edition.			
7.	Aggregate anticipated cost or savings to:				
	A) State budget:				
	Affected:	No ___; Yes XX			
		The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.			
	B) Local government:				

Affected:	No XX; Yes	
The proposed amendments only apply to licensed occupational therapists and occupational therapy assistants and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.		
C) Small businesses ("small business" means a business employing fewer than 50 persons):		
Affected:	No XX; Yes	
The proposed amendments only apply to licensed occupational therapists and occupational therapy assistants and applicants for licensure in those classifications. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business		
D) Persons other than small businesses, businesses, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):		
Affected:	No ___; Yes XX	
The proposed amendments only apply to licensed occupational therapists and occupational therapy assistants and applicants for licensure in those classifications. If a licensee violated any of the provisions of the American Occupational Therapy Association Code of Ethics, the licensee could be charged with unprofessional conduct against the license, which may result in some costs to the licensee to defend a possible licensure action.		
8.	Compliance costs for affected persons:	
The proposed amendments only apply to licensed occupational therapists and occupational therapy assistants and applicants for licensure in those classifications. If a licensee violated any of the provisions of the American Occupational Therapy Association Code of Ethics, the licensee could be charged with unprofessional conduct against the license, which may result in some costs to the licensee to defend a possible licensure action.		
9.	A) Comments by the department head on the fiscal impact the rule may have on businesses:	
No fiscal impact to businesses is anticipated with this rule filing, which makes technical changes, corrects references and further defines unprofessional conduct by a licensee.		
B) Name and title of department head commenting on the fiscal impacts:		
Francine A. Giani, Executive Director		
10.	This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.	
State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :		
Subsection 58-1-106(1)(a)		Subsection 58-1-202(1)(a)
Section 58-42a-101		
11.	This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; <i>if none, leave blank</i>):	
	First Incorporation	Second Incorporation
Official Title of Materials Incorporated (from title page)	Occupational Therapy Code of Ethics	
Publisher	American Occupational Therapy Association	
Date Issued	April 2005	
Issue, or version		
ISBN Number (optional)		
ISSN Number (optional)		
Cost of Incorporated Reference	none	
Action: Adds, updates, or removes	Adds	
(If this rule incorporates more than two items by reference, please attach additional pages)		

12.	The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
	A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):	12/15/2009
	B) A public hearing (optional) will be held:	
	On (mm/dd/yyyy):	At (hh:mm AM/PM):
	12/02/2009	9:00 am
		At (place):
		160 East 300 South, Conference Room 464 (4th floor), Salt Lake City, Utah
13.	This rule change may become effective on (mm/dd/yyyy):	12/22/2009
	NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	
14.	Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")); may not include the name of the agency:	
	licensing	occupational therapy
15.	Attach an RTF document containing the text of this rule change (filename):	R156-42a.pro
To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.		
AGENCY AUTHORIZATION		
Agency head or designee, and title:	Mark B. Steinagel, Director	Date (mm/dd/yyyy): 10/26/2009

R156. Commerce, Occupational and Professional Licensing.

R156-42a. Occupational Therapy Practice Act Rule.

R156-42a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 42a, as used in Title 58, Chapters 1 and 42a, or this rule:

(1) "General supervision", as used in Section 58-42a-304 and Subsection R156-42a-302b(2), means the supervising occupational therapist is:

(a) present in the area where the person supervised is performing services; and

(b) immediately available to assist the person being supervised in the services being performed.

(2) "Consult with the attending physician", as used in Subsection 58-42a-501(6), means that the occupational therapist will consult with the attending physician when an acute change of patient condition affects the occupational therapy services being performed.

(3) "Physical agent modalities", as used in Subsection 58-42a-102(9)(g), means specialized treatment procedures that produce a response in soft tissue through the use of light, water, temperature, sound or electricity such as hot packs, ice, paraffin, and electrical or sound currents.

(4) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 42a, is further defined, in accordance with Subsection 58-1-203([5]1)(e), in Section R156-42a-502.

R156-42a-103. Authority - Purpose.

This rule is adopted by the [d]Division under the authority of Subsection 58-1-106(1)(a) to enable the [d]Division to administer Title 58, Chapter 42a.

R156-42a-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licenses under Title 58, Chapter 42a is established by rule in R156-1-308a.

(2) Renewal procedures shall be in accordance with Section R156-1-308c.

R156-42a-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) delegating supervision, or occupational therapy services, care or responsibilities not authorized under Title 58, Chapter 42a or this rule;

(2) engaging in or attempting to engage in the use of physical agent modalities when not competent to do so by education, training, or experience;[-and]

(3) failing to provide general supervision as set forth in Title 58, Chapter 42a and this rule; and

(4) violating any provision of the American Occupational Therapy Association Code of Ethics, last amended April 2005, which is hereby adopted and incorporated by reference.

KEY: licensing, occupational therapy

Date of Enactment or Last Substantive Amendment: [February 22, 2007]2009

Notice of Continuation: February 26, 2009

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a);
58-1-202(1)(a); 58-42a-101