

Florida Occupational Therapy Laws & Rules

Goals & Objectives

Course Description

"Florida Occupational Therapy Laws and Rules" is an online continuing education course for Florida licensed occupational therapists and occupational therapy assistants. The course focuses on defining the legal practice of occupational therapy according to the Florida rules and laws. The information presented includes sections on the theoretical basis for ethical decision-making, Chapters 456 and 468 PART III of the Florida Statutes, The Florida Patient's Bill of Rights (381.026), and Chapter 64B11 of the Florida Administrative Code.

Course Rationale

This course was developed to promote and facilitate ethical and legal behavior among Florida licensed occupational therapists and occupational therapy assistants.

Course Goals

At the end of this course, participants will be able to:

1. identify the theoretical basis for ethical / legal decision-making.
2. recognize legal standards of behavior as defined by their state practice act and Board rules. (Chapters 456, 468, and 381.026 of F.S. and 64B11, F.A.C.)
3. analyze and interpret hypothetical situations to determine legal behavior.
4. recognize the basic rights of the patient.
5. recognize the legal and ethical considerations of billing and coding.
6. recognize legal implications of "conflict of interest".
7. identify and practice appropriate relationships in the rehabilitation setting.

Course Provider – Innovative Educational Services

Provider Contact Information – information@cheapceus.com

Course Instructor – Michael Niss, DPT

Financial/Non-financial Disclosure - Neither the Provider nor the instructor have any financial or non-financial conflict of interest related to the presentation of this CE program.

Target Audience – Occupational Therapists, Occupational Therapy Assistants

OT Scope of Practice – Professional Issues

Course Educational Level – This course is applicable for introductory learners.

Course Prerequisites – None

Method of Instruction – Distance Learning – Independent; Asynchronous online text-based home study

Location - Cheapceus.com

Date – Continuously available on-demand

Course Completion Requirements / Criteria for Issuance of CE Credits – Completion of instructional materials and a score of 70% or greater on the course post-test.

Continuing Education Credits – Two (2) contact hours / .2 AOTA CEUs / NBCOT 2.5 PDUs

Course Fee - \$9.95

Registration Information – No pre-registration required; available on-demand at Cheapceus.com

Special Needs Requests – Email: information@cheapceus.com or phone: 954-663-4101

Cancellation by the Learner – Learners may cancel their participation at any time and receive a full refund of all paid fees.

Cancellation by the Provider – Registrants for the cancelled activity will be contacted by an IES staff member via phone call or email within 12 hours of the cancellation decision. If the decision to cancel is made less than 14 hours prior to the event, each participant will be contacted no later than 2 hours prior to the scheduled start time of the activity. Registrants will receive a full refund if an activity is cancelled by the Provider. The refund will be processed back to the Registrant within 12 hours of the cancellation.

Complaint Resolution – Please call 954-663-4101 (24 hours/day, 7 days/week) to speak with a live customer service agent. Our goal is to work with our customers to resolve all issues to the customer's satisfaction with just one phone call whenever possible.

Refund Policy - Unrestricted 100% refund upon request. The request for a refund by the learner shall be honored in full without penalty or other consideration of any kind. The request for a refund may be made by the learner at any time without limitations before, during, or after course participation.



Innovative Educational Services is an AOTA Approved Provider of professional development. PD activity approval ID# 5471. This Distance Learning – Independent PD activity is offered at .2 CEUs; Introductory; OT Professional Issues. The assignment of AOTA CEUs does not imply endorsement of specific course content, products, or clinical procedures by AOTA.

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Course Outline

	page
Goals and Objectives	1
Outline	2
Ethical & Legal Behavior	3-4
Ethics	3
Rationale for Legal/Ethical Behavior	3
Making Right Decisions	3-4
Chapter 468, Part III of the Florida Statutes	4-8
468.203 Definitions.	4-5
468.205 Board of Occupational Therapy Practice.	5
468.207 License required.	5
468.215 Issuance of license.	5-6
468.217 Denial of or refusal to renew license; suspension and revocation of license and other disciplinary measures.	6-7
468.223 Prohibitions; penalties.	7
468.225 Exemptions.	8
Chapter 456 of the Florida Statutes	8-16
456.024 Members of Armed Forces in good standing with administrative boards or the department; spouses.	8
456.032 Hepatitis B or HIV carriers	8-9
456.033 Requirement for instruction for on HIV and AIDS.	9
456.0341 Human Trafficking Instruction	9
456.052 Disclosure of financial interest by production.	9
456.053 Financial arrangements between referring health care providers and providers of health care services.	10
456.054 Kickbacks prohibited.	11
456.0575 Duty to notify patients.	11
456.062 Advertisement by a health care practitioner.	11
456.063 Sexual misconduct	11
456.067 Penalty for giving false information.	11
456.072 Grounds for discipline; penalties; enforcement.	12-14
456.41 Complementary or alternative health care treatments.	14-15
Florida Administrative Code, Chapter 64B11	16-27
64B11-2 Admission of Occupational Therapists	16
64B11-4 Standards of Practice	16-23
64B11-5 Licensure Status and Fees	23-26
64B11-6 Continuing Education	26-27
Chapter 381.026 Patient's Bill of Rights	27-32
Legal / Ethical Case Studies	32-35
References	36
Post-Test	37-39

Ethical & Legal Behavior

Ethics

The word "ethics" is derived from the Greek word *ethos* (character). In philosophy, ethics defines what is good for the individual and for society and establishes the nature of duties that people owe themselves and one another. Ethics is also a field of human inquiry ("science" according to some definitions) that examines the bases of human goals and the foundations of "right" and "wrong" human actions that further or hinder these goals.

Rationale for Legal & Ethical Practice

- People feel better about themselves and their profession when they work in a legal and ethical manner.
- Professions recognize that their credibility rests not only on technical competence, but also on public trust.
- At the organizational level, ethical practice is good business. Several studies have shown that, over the long run, ethical businesses perform better than unethical businesses.

Making Right Decisions

The foundation for making right decisions is rooted in an individual's ability to answer several fundamental questions concerning their actions.

Is it legal?

Knowing and understanding the legality of one's actions is a prudent way to begin the decision-making process. The laws that define legal occupational therapy practice are different for each state. It is the responsibility of each occupational therapist and occupational therapy assistant to know and understand all of the applicable laws and rules of their state that regulate their profession. In the state of Florida, the following rules and laws define the legal practice of occupational therapy:

1. Chapter 468 (Part III) of the Florida Statutes, Occupational Therapy
2. Chapter 456 of the Florida Statutes, Health Professions and Occupations: General Provisions
3. Chapter 381.026 of the Florida Statutes, Florida Patient's Bill of Rights and Responsibilities
4. Chapter 64B11 of the Florida Administrative Code, Occupational Therapists

The Florida Statutes are the laws of the state that are created and passed by the Florida Legislature. Chapter 468 (Part III) is commonly referred to as the "Occupational Therapy Practice Act".

The Florida Administrative Code is the published rules of administration established by each of the designated state agencies and boards. Chapter 64B11 lists and details the rules of the Board of Occupational Therapy.

Is it ethical?

Professional ethical behavior as it is defined in this context relates to actions that are consistent with the normative standards established or practiced by others in the same profession. For occupational therapists and occupational therapy assistants, these standards are documented in the AOTA's Code of Ethics and the AOTA's Standards of Practice of Occupational Therapy. All OT's and OTA's, even those who are not members of the AOTA, are bound to these guidelines. This is because The AOTA's Code of Ethics and Standards of Practice are the accepted and de facto ethical standard of the profession.

A complete copy of the AOTA's Code of Ethics is available at: <https://ajot.aota.org/article.aspx?articleid=2442685>

A complete copy of the AOTA's Standards of Practice is available at: <https://ajot.aota.org/article.aspx?articleid=1872133>

Is it fair?

I think most people would agree that the concept of fairness is often highly subjective. However, for these purposes, we will define fairness as meaning deserved, equitable and unbiased. Fairness requires the decision-maker to have a complete understanding of benefits and liabilities to all parties affected by the decision. Decisions that result in capricious harm or arbitrary benefit cannot be considered fair. The goal of every decision should be an outcome of relative equity that reflects insightful thought and soundness of intent.

Would you want others to know of your decision?

This question presents as a true reflection of the other three. Legal, ethical, and fair are defined quite differently by most people when judged in the comfort of anonymity versus when it is examined before the forum of public opinion. Most often it is the incorrect assumption that "no one will ever find out about this" that leads people to commit acts of impropriety. How would your decisions change, if prior to taking any actions, you assumed just the opposite; "other people will definitely know what I have done"? One sure sign of a poor decision is debating the possible exposure of an action instead of examining the appropriateness of it.

The Florida Statutes Title XXXII Regulation of Professions and Occupations Chapter 468 Miscellaneous Professions and Occupations Part III Occupational Therapy

The preceding information obtained from Chapter 468 of the 2022 Florida Statutes has been abridged. If you would like to read the statutes in their entirety, please go to: <https://floridasoccupationaltherapy.gov/applications/chapter-64B11.pdf>

468.203 Definitions

(1) "Achieving functional outcomes" means to maximize the independence and the maintenance of health of any individual who is limited by a physical injury or illness, a cognitive impairment, a psychosocial dysfunction, a mental illness, a developmental or a learning disability, or an adverse environmental condition.

(2) "Assessment" means the use of skilled observation or the administration and interpretation of standardized or non-standardized tests and measurements to identify areas for occupational therapy services.

(b) Occupational therapy services include, but are not limited to:

1. The assessment, treatment, and education of or consultation with the individual, family, or other persons.
2. Interventions directed toward developing daily living skills, work readiness or work performance, play skills or leisure capacities, or enhancing educational performance skills.

3. Providing for the development of: sensory-motor, perceptual, or neuromuscular functioning; range of motion; or emotional, motivational, cognitive, or psychosocial components of performance.

These services may require assessment of the need for use of interventions such as the design, development, adaptation, application, or training in the use of assistive technology devices; the design, fabrication, or application of rehabilitative technology such as selected orthotic devices; training in the use of assistive technology; orthotic or prosthetic devices; the application of physical agent modalities as an adjunct to or in preparation for purposeful activity; the use of ergonomic principles; the adaptation of environments and processes to enhance functional performance; or the promotion of health and wellness.

(5) "Occupational therapy aide" means a person who assists in the practice of occupational therapy, who works under the direct supervision of a licensed occupational therapist or occupational therapy assistant, and whose activities require a general understanding of occupational therapy pursuant to board rules.

(6) "Occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy, who works under the supervision of an occupational therapist, and whose license is in good standing.

(8) "Supervision" means responsible supervision and control, with the licensed occupational therapist providing both initial direction in developing a plan of treatment and periodic inspection of the actual implementation of the plan. Such plan of treatment shall not be altered by the supervised individual without prior consultation with, and the approval of, the supervising occupational therapist. The supervising occupational therapist need not always be physically present or on the premises when the assistant is performing services; however, except in cases of emergency, supervision shall require the availability of the supervising occupational therapist for consultation with and direction of the supervised individual.

468.205 Board of Occupational Therapy Practice

(1) There is created within the department the Board of Occupational Therapy Practice, composed of seven members appointed by the Governor, subject to confirmation by the Senate.

(2) Four members shall be licensed occupational therapists in good standing in this state who are residents of this state and have been engaged in the practice of occupational therapy for at least 4 years immediately prior to their appointment. One member shall be a licensed occupational therapy assistant in good standing in this state who is a resident of the state and has been engaged in the practice of occupational therapy for at least 4 years immediately prior to the appointment. Two members shall be consumers who are residents of the state who are not connected with the practice of occupational therapy.

468.207 License required.

No person shall practice occupational therapy or hold himself or herself out as an occupational therapist or an occupational therapy assistant or as being able to practice occupational therapy or to render occupational therapy services in the state unless he or she is licensed in accordance with the provisions of this act.

468.215 Issuance of license.

(1) The board shall issue a license to any person who meets the requirements of this act upon payment of the license fee prescribed.

(2) Any person who is issued a license as an occupational therapist under the terms of this act may use the words "occupational therapist," "licensed occupational therapist," or "occupational therapist registered," or he or she may use the letters "O.T.," "L.O.T.," or "O.T.R.," in connection with his or her name or place of business to denote his or her registration hereunder.

(3) Any person who is issued a license as an occupational therapy assistant under the terms of this act may use the words “occupational therapy assistant,” “licensed occupational therapy assistant,” or “certified occupational therapy assistant,” or he or she may use the letters, “O.T.A.,” “L.O.T.A.,” or “C.O.T.A.,” in connection with his or her name or place of business to denote his or her registration hereunder.

468.217 Denial of or refusal to renew license; suspension and revocation of license and other disciplinary measures.

- (1) The following acts constitute grounds for denial of a license or disciplinary action:
- (a) Attempting to obtain, obtaining, or renewing an occupational therapy license by bribery, by fraudulent misrepresentation, or through an error of the department or the board.
 - (b) Having an occupational therapy license revoked, denied or suspended, by the licensing authority of another state, territory, or country.
 - (c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of occupational therapy. A plea of nolo contendere shall be considered a conviction for the purposes of this part.
 - (d) False, deceptive, or misleading advertising.
 - (e) Advertising, practicing, or attempting to practice under a name other than one’s own name.
 - (f) Failing to report to the department any person who the licensee knows is in violation of this part or of the rules.
 - (g) Aiding, assisting, procuring, or advising any unlicensed person to practice occupational therapy contrary to a rule of the department or the board.
 - (h) Failing to perform any statutory or legal obligation placed upon a licensed occupational therapist or occupational therapy assistant.
 - (i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report required by law, willfully impeding such filing or inducing another person to do so. Such reports or records include only those which are signed in the capacity as a licensed occupational therapist or occupational therapy assistant.
 - (j) Paying or receiving any commission, bonus, kickback, or rebate to or from, or engaging in any split-fee arrangement in any form with, a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies.
 - (k) Exercising influence within a patient-therapist relationship for purposes of engaging a patient in sexual activity. A patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with the patient’s occupational therapist or occupational therapy assistant.
 - (l) Making deceptive, untrue, or fraudulent representations in the practice of occupational therapy or employing a trick or scheme in the practice of occupational therapy if such scheme or trick fails to conform to the generally prevailing standards of treatment in the occupational therapy community.
 - (m) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A “solicitation” is any communication which directly or implicitly requests an immediate oral response from the recipient.
 - (n) Failing to keep written records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, and test results.

- (o) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which includes, but is not limited to, the promoting or selling of services, goods, appliances, or drugs.
- (p) Performing professional services which have not been duly authorized by the patient or client, or his or her legal representative, except as provided in s. 768.13.
- (q) Gross or repeated malpractice or the failure to practice occupational therapy with that level of care, skill, and treatment which is recognized by a reasonably prudent similar occupational therapist or occupational therapy assistant as being acceptable under similar conditions and circumstances.
- (r) Performing any procedure which, by the prevailing standards of occupational therapy practice in the community, would constitute experimentation on a human subject without first obtaining full, informed, and written consent.
- (s) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.
- (t) Being unable to practice occupational therapy with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel an occupational therapist or occupational therapy assistant to submit to a mental or physical examination by physicians designated by the department.
- (u) Delegating professional responsibilities to a person when the licensee who is delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.
- (v) Violating a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.
- (w) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.
- (x) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

468.223 Prohibitions; penalties.

- (1) A person may not:
 - (a) Practice occupational therapy unless such person is licensed
 - (b) Use, in connection with his or her name or place of business, the words “occupational therapist,” “licensed occupational therapist,” “occupational therapist registered,” “occupational therapy assistant,” “licensed occupational therapy assistant,” “certified occupational therapy assistant”; the letters “O.T.,” “L.O.T.,” “O.T.R.,” “O.T.A.,” “L.O.T.A.,” or “C.O.T.A.”; or any other words, letters, abbreviations, or insignia indicating or implying that he or she is an occupational therapist or an occupational therapy assistant or, in any way, orally or in writing, in print or by sign, directly or by implication, to represent himself or herself as an occupational therapist or an occupational therapy assistant unless the person is a holder of a valid license;
 - (c) Present as his or her own the license of another;
 - (d) Knowingly give false or forged evidence to the board or a member thereof;
 - (e) Use or attempt to use a license which has been suspended, revoked, or placed on inactive or delinquent status;
 - (f) Employ unlicensed persons to engage in the practice of occupational therapy; or
 - (g) Conceal information relative to any violation of ss. 468.201-468.225.

(2) Any person who violates any provision of this section commits a misdemeanor of the second degree.

468.225 Exemptions.

(1) Nothing in this act shall be construed as preventing or restricting the practice, services, or activities of:

(a) Any person licensed in this state by any other law from engaging in the profession or occupation for which he or she is licensed.

(b) Any person employed as an occupational therapist or occupational therapy assistant by the United States, if such person provides occupational therapy solely under the direction or control of the organization by which he or she is employed.

(c) Any person pursuing a course of study leading to a degree or certificate in occupational therapy at an accredited or approved educational program, if such activities and services constitute a part of a supervised course of study and if such a person is designated by a title which clearly indicates his or her status as a student or trainee.

(d) Any person fulfilling the supervised fieldwork experience requirements of s. 468.209, if such activities and services constitute a part of the experience necessary to meet the requirements of that section.

(2) No provision of this act shall be construed to prohibit physicians, physician assistants, nurses, physical therapists, osteopathic physicians or surgeons, clinical psychologists, speech-language pathologists, or audiologists from using occupational therapy as a part of or incidental to their profession, when they practice their profession under the statutes applicable to their profession.

**The Florida Statutes
Title XXXII Regulation of Professions and Occupations
Chapter 456 Health Professions and Occupations: General Provisions**

The preceding information obtained from Chapter 456 of the 2022 Florida Statutes has been abridged. If you would like to read the statutes in their entirety, please go to: <https://floridasoccupationaltherapy.gov/applications/chapter-64B11.pdf>

456.024 Members of Armed Forces in good standing with administrative boards or the department; spouses.

(1) Any member of the Armed Forces of the United States now or hereafter on active duty who, at the time of becoming such a member, was in good standing with any administrative board of the state, and was entitled to practice or engage in his or her profession or vocation in the state shall be kept in good standing by such administrative board, without registering, paying dues or fees, or performing any other act on his or her part to be performed, as long as he or she is a member of the Armed Forces of the United States on active duty and for a period of 6 months after discharge from active duty as a member of the Armed Forces of the United States, provided he or she is not engaged in his or her licensed profession or vocation in the private sector for profit.

456.032 Hepatitis B or HIV carriers.

(2) Any person licensed by the department and any other person employed by a health care facility who contracts a blood-borne infection shall have a rebuttable presumption that the illness was contracted in the course and scope of his or her employment, provided that the person, as soon as practicable, reports to the person's supervisor or the facility's risk manager any significant exposure, to blood or body fluids. The employer may test the blood or body fluid to determine if it is infected with the same disease contracted by the employee. The employer may

rebut the presumption by the preponderance of the evidence. Except as expressly provided in this subsection, there shall be no presumption that a blood-borne infection is a job-related injury or illness.

456.033 Requirement for instruction for certain licensees on HIV and AIDS.

- (1) Each person shall be required to complete no later than upon first renewal a continuing educational course on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial re-licensure or recertification.
- (2) Each person shall submit confirmation of having completed the course
- (4) Any person holding two or more licenses subject to the provisions of this section shall be permitted to show proof of having taken one board-approved course on human immunodeficiency virus and acquired immune deficiency syndrome, for purposes of re-licensure or recertification for additional licenses.

456.0341 Requirement for instruction on human trafficking

- (1) By January 1, 2021, each licensee or certificateholder shall complete a board-approved, or department-approved if there is no board, 1-hour continuing education course on human trafficking. The course must address both sex trafficking and labor trafficking, how to identify individuals who may be victims of human trafficking, how to report cases of human trafficking, and resources available to victims.
- (2) Each licensing board that requires a licensee or certificateholder to complete a course pursuant to this section must include the hour required for completion in the total hours of continuing education required by law for such profession.
- (3) By January 1, 2021, the licensees or certificateholders shall post in their place of work in a conspicuous place accessible to employees a sign at least 11 inches by 15 inches in size, printed in a clearly legible font and in at least a 32-point type, which substantially states in English and Spanish:
“If you or someone you know is being forced to engage in an activity and cannot leave, whether it is prostitution, housework, farm work, factory work, retail work, restaurant work, or any other activity, call the National Human Trafficking Resource Center at 888-373-7888 or text INFO or HELP to 233-733 to access help and services. Victims of slavery and human trafficking are protected under United States and Florida law.”

456.052 Disclosure of financial interest by production.

- (1) A health care provider shall not refer a patient to an entity in which such provider is an investor unless, prior to the referral, the provider furnishes the patient with a written disclosure form, informing the patient of:
 - (a) The existence of the investment interest.
 - (b) The name and address of each applicable entity in which the referring health care provider is an investor.
 - (c) The patient's right to obtain the items or services for which the patient has been referred at the location or from the provider or supplier of the patient's choice, including the entity in which the referring provider is an investor.
 - (d) The names and addresses of at least two alternative sources of such items or services available to the patient.
- (2) The health care provider shall post a copy of the disclosure forms in a conspicuous public place in his or her office.
- (3) A violation of this section shall constitute a misdemeanor of the first degree.

456.053 Financial arrangements between referring health care providers and providers of health care services.

(1) This section may be cited as the "Patient Self-Referral Act of 1992."

(2) It is recognized by the Legislature that the referral of a patient by a health care provider to a provider of health care services in which the referring health care provider has an investment interest represents a potential conflict of interest. The Legislature finds these referral practices may limit or eliminate competitive alternatives in the health care services market, may result in overutilization of health care services, may increase costs to the health care system, and may adversely affect the quality of health care. The Legislature also recognizes, however, that it may be appropriate for providers to own entities providing health care services, and to refer patients to such entities, as long as certain safeguards are present in the arrangement. It is the intent of the Legislature to provide guidance to health care providers regarding prohibited patient referrals between health care providers and entities providing health care services and to protect the people of Florida from unnecessary and costly health care expenditures.

(5) Prohibited Referrals and Claims for Payment

(a) A health care provider may not refer a patient for the provision of designated health services to an entity in which the health care provider is an investor or has an investment interest.

(b) A health care provider may not refer a patient for the provision of any other health care item or service to an entity in which the health care provider is an investor unless:

1. The provider's investment interest is in registered securities purchased on a national exchange or over-the-counter market and issued by a publicly held corporation:
 - a. Whose shares are traded on a national exchange or on the over-the-counter market; and
 - b. Whose total assets at the end of the corporation's most recent fiscal quarter exceeded \$50 million; or
2. With respect to an entity other than a publicly held corporation described in subparagraph 1., and a referring provider's investment interest in such entity, each of the following requirements are met:
 - a. No more than 50 percent of the value of the investment interests are held by investors who are in a position to make referrals to the entity.
 - b. The terms under which an investment interest is offered to an investor who is in a position to make referrals to the entity are no different from the terms offered to investors who are not in a position to make such referrals.
 - c. The terms under which an investment interest is offered to an investor who is in a position to make referrals to the entity are not related to the previous or expected volume of referrals from that investor to the entity.
 - d. There is no requirement that an investor make referrals or be in a position to make referrals to the entity as a condition for becoming or remaining an investor.
3. With respect to either such entity or publicly held corporation:
 - a. The entity or corporation does not loan funds to or guarantee a loan for an investor who is in a position to make referrals to the entity or corporation if the investor uses any part of such loan to obtain the investment interest.
 - b. The amount distributed to an investor representing a return on the investment interest is directly proportional to the amount of the capital investment, including the fair market value of any preoperational services rendered, invested in the entity or corporation by that investor.

456.054 Kickbacks prohibited.

- (1) The term "kickback" means a remuneration or payment back pursuant to an investment interest, compensation arrangement, or otherwise, by a provider of health care services, of a portion of the charges for services rendered to a referring health care provider as an incentive to refer patients for future services, when the payment is not tax deductible as an ordinary and necessary expense.
- (2) It is unlawful for any health care provider to offer, pay, solicit, or receive a kickback, directly or indirectly, in cash or in kind, for referring or soliciting patients.
- (3) Violations of this section shall be considered patient brokering and shall be punishable as provided in s. 817.505.

456.0575 Duty to notify patients.

Every licensed health care practitioner shall inform each patient, in person about adverse incidents that result in serious harm to the patient. Notification of outcomes of care that result in harm to the patient under this section shall not constitute an acknowledgment of admission of liability, nor can such notifications be introduced as evidence.

456.062 Advertisement by a health care practitioner of free or discounted services; required statement.

In any advertisement for a free or reduced fee service by a health care practitioner the following statement shall appear in capital letters clearly distinguishable from the rest of the text: THE PATIENT AND ANY OTHER PERSON RESPONSIBLE FOR PAYMENT HAS A RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR PAYMENT FOR ANY OTHER SERVICE, EXAMINATION, OR TREATMENT THAT IS PERFORMED AS A RESULT OF AND WITHIN 72 HOURS OF RESPONDING TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED FEE SERVICE, EXAMINATION, OR TREATMENT.

456.063 Sexual misconduct; disqualification for license, certificate, or registration.

- (1) Sexual misconduct in the practice of a health care profession means violation of the professional relationship through which the health care practitioner uses such relationship to engage or attempt to engage the patient, immediate family member, guardian, or representative of the patient in, verbal or physical sexual activity outside the scope of the professional practice of such health care profession. Sexual misconduct in the practice of a health care profession is prohibited.
- (2) Each board within the jurisdiction of the department shall refuse to admit a candidate to any examination and refuse to issue a license, certificate, or registration to any applicant if the candidate or applicant has:
 - (a) Had any license to practice any profession revoked based on a violation of sexual misconduct in the practice of that profession under the laws of any other state and has not had that license, reinstated by the licensing authority of the jurisdiction that revoked the license; or
 - (b) Committed any act in any other state which if committed in this state would constitute sexual misconduct.
- (3) Licensed health care practitioners shall report allegations of sexual misconduct to the department, regardless of the practice setting in which the alleged sexual misconduct occurred.

456.067 Penalty for giving false information.

The act of knowingly giving false information in the course of applying for or obtaining a license from the department constitutes a felony of the third degree.

456.072 Grounds for discipline; penalties; enforcement.

- 1) The following acts shall constitute grounds for which the disciplinary actions may be taken:
 - (a) Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession.
 - (b) Intentionally violating any rule adopted by the board or the department, as appropriate.
 - (c) Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.
 - (d) Using a Class III or a Class IV laser device or product, as defined by federal regulations, without having complied with the rules adopted under s. 501.122(2) governing the registration of the devices.
 - (e) Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome.
 - (f) Having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.
 - (g) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee.
 - (h) Attempting to obtain, obtaining, or renewing a license to practice a profession by bribery, by fraudulent misrepresentation, or through an error of the department or the board.
 - (i) Except as provided in s. 465.016, failing to report to the department any person who the licensee knows is in violation of this chapter, the chapter regulating the alleged violator, or the rules of the department or the board.
 - (j) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this chapter, the chapter regulating the profession, or the rules of the department or the board.
 - (k) Failing to perform any statutory or legal obligation placed upon a licensee. For purposes of this section, failing to repay a student loan issued or guaranteed by the state or the Federal Government in accordance with the terms of the loan or failing to comply with service scholarship obligations shall be considered a failure to perform a statutory or legal obligation, and the minimum disciplinary action imposed shall be a suspension of the license until new payment terms are agreed upon or the scholarship obligation is resumed, followed by probation for the duration of the student loan or remaining scholarship obligation period, and a fine equal to 10 percent of the defaulted loan amount.
 - (l) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee.
 - (m) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.
 - (n) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.
 - (o) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

- (p) Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of the responsibilities knows, or has reason to know, the person is not qualified by training, experience, and authorization when required to perform them.
- (q) Violating a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.
- (r) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.
- (s) Failing to comply with the educational course requirements for domestic violence.
- (t) Failing to identify through written notice, which may include the wearing of a name tag, or orally to a patient the type of license under which the practitioner is practicing. Any advertisement for health care services naming the practitioner must identify the type of license the practitioner holds.
- (u) Failing to provide patients with information about their patient rights and how to file a patient complaint.
- (v) Engaging or attempting to engage in sexual misconduct.
- (w) Failing to comply with the requirements for profiling and credentialing, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.
- (x) Failing to report to the board in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.
- (y) Using information about people involved in motor vehicle accidents for the purposes of commercial or any other solicitation whatsoever of the people involved in the accidents.
- (z) Being unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the State Surgeon General or the State Surgeon General's designee that probable cause exists to believe that the licensee is unable to practice because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with the order, the department's order directing the examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificate holder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of his or her profession with reasonable skill and safety to patients.
- (aa) Testing positive for any drug on any confirmed pre-employment or employer-ordered drug screening when the practitioner does not have a lawful prescription and legitimate medical reason for using the drug.
- (bb) Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.
- (ee) With respect to making a personal injury protection claim as required by s. 627.736, intentionally submitting a claim, statement, or bill that has been "upcoded" as defined in s. 627.732.

(ff) With respect to making a personal injury protection claim as required by s. 627.736, intentionally submitting a claim, statement, or bill for payment of services that were not rendered.

(hh) Being terminated from a treatment program for impaired practitioners, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

(2) When the board, finds any person guilty of the grounds set forth in subsection (1) or of any grounds set forth in the applicable practice act, it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify, or to certify with restrictions, an application for a license.

(b) Suspension or permanent revocation of a license.

(c) Restriction of practice or license,

(d) Imposition of an administrative fine not to exceed \$10,000 for each count or separate offense. If the violation is for fraud or making a false or fraudulent representation, the board must impose a fine of \$10,000 per count or offense.

(e) Issuance of a reprimand or letter of concern.

(f) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify.

(g) Corrective action.

(h) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.

(i) Refund of fees billed and collected from the patient or a third party on behalf of the patient.

(j) Requirement that the practitioner undergo remedial education.

456.41 Complementary or alternative health care treatments.

(1) It is the intent of the Legislature that citizens be able to make informed choices for any type of health care they deem to be an effective option for treating human disease, pain, injury, deformity, or other physical or mental condition. It is the intent of the Legislature that citizens be able to choose from all health care options, including the prevailing or conventional treatment methods as well as other treatments designed to complement or substitute for the prevailing or conventional treatment methods. It is the intent of the Legislature that health care practitioners be able to offer complementary or alternative health care treatments with the same requirements, provisions, and liabilities as those associated with the prevailing or conventional treatment methods.

(3) A health care practitioner who offers to provide a patient with a complementary or alternative health care treatment must inform the patient of the nature of the treatment and must explain the benefits and risks associated with the treatment to the extent necessary for the patient to make an informed and prudent decision regarding such treatment option. In compliance with this subsection:

(a) The health care practitioner must inform the patient of the practitioner's education, experience, and credentials in relation to the complementary or alternative health care treatment option.

(b) The health care practitioner may, in his or her discretion, communicate the information orally or in written form directly to the patient or to the patient's legal representative.

(c) The health care practitioner may, in his or her discretion and without restriction, recommend any mode of treatment that is, in his or her judgment, in the best interests of the patient, including complementary or alternative health care treatments, in accordance with the provisions of his or her license.

(4) Every health care practitioner providing a patient with a complementary or alternative health care treatment must indicate in the patient's care record the method by which the requirements of subsection (3) were met.

456.47 Use of telehealth to provide services

(1) Definitions—As used in this section, the term:

(a) “Telehealth” means the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.

(b) “Telehealth provider” means any individual who provides health care and related services using telehealth and who is licensed or certified under s. 393.17; part III of chapter 401; chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, **part III of chapter 468**; chapter 478; chapter 480; part II or part III of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491; who is licensed under a multistate health care licensure compact of which Florida is a member state; or who is registered under and complies with subsection (4).

(2) Practice Standards.—

(a) A telehealth provider has the duty to practice in a manner consistent with his or her scope of practice and the prevailing professional standard of practice for a health care professional who provides in-person health care services to patients in this state.

(b) A telehealth provider may use telehealth to perform a patient evaluation. If a telehealth provider conducts a patient evaluation sufficient to diagnose and treat the patient, the telehealth provider is not required to research a patient’s medical history or conduct a physical examination of the patient before using telehealth to provide health care services to the patient.

(c) A telehealth provider may not use telehealth to prescribe a controlled substance unless the controlled substance is prescribed for the following:

1. The treatment of a psychiatric disorder;
2. Inpatient treatment at a hospital licensed under chapter 395;
3. The treatment of a patient receiving hospice services as defined in s. 400.601;
4. The treatment of a resident of a nursing home facility as defined in s. 400.021.

(d) A telehealth provider and a patient may be in separate locations when telehealth is used to provide health care services to a patient.

(e) A nonphysician telehealth provider using telehealth and acting within his or her relevant scope of practice, as established by Florida law or rule, is not in violation of s. 458.327(1)(a) or s. 459.013(1)(a).

(3) Records.—A telehealth provider shall document in the patient’s medical record the health care services rendered using telehealth according to the same standard as used for in-person services. Medical records, including video, audio, electronic, or other records generated as a result of providing such services, are confidential.

(5) Venue.—For the purposes of this section, any act that constitutes the delivery of health care services is deemed to occur at the place where the patient is located at the time the act is performed or in the patient’s county of residence.

(6) Exemptions.—A health care professional who is not licensed to provide health care services in this state but who holds an active license to provide health care services in another state or jurisdiction, and who provides health care services using telehealth to a patient located

in this state, is not subject to the registration requirement under this section if the services are provided:

- (a) In response to an emergency medical condition as defined in s. 395.002; or
- (b) In consultation with a health care professional licensed in this state who has ultimate authority over the diagnosis and care of the patient.

Florida Administrative Code Chapter 64B11 Occupational Therapists

The following information obtained from Chapter 64B-11 of the Florida Administrative Code has been abridged. If you would like to read the statutes in their entirety, please go to: <https://floridasoccupationaltherapy.gov/applications/chapter-64B11.pdf>

Chapter 64B11-2 Admission of Occupational Therapists

64B11-2.011 Definition of Supervised Fieldwork Experience.

Supervision, for purposes of this rule, shall mean that the occupational therapist student or occupational therapy assistant student has daily direct contact at the worksite with his or her supervisor. The term “supervised fieldwork experience,” as provided for in Section 468.209(1)(c), F.S., shall mean:

(1) For an occupational therapy student, experience at an occupational therapist level occurring in a clinical setting affiliated with an educational institution in occupational therapy for a minimum of 6 months, with the fieldwork experience supervised by a licensed occupational therapist.

(2) For an occupational therapy assistant student, experience at an occupational therapy assistant level occurring in a clinical setting affiliated with an educational institution in occupational therapy for a minimum of 2 months, with the fieldwork experience supervised by a licensed occupational therapist or by a licensed occupational therapy assistant under the supervision of a licensed occupational therapist.

64B11-2.012 Applicants Seeking Reentry.

An applicant seeking reentry into the profession who has not been in active practice within the last five years must submit to the Board documentation of 50 occupational therapy continuing education hours, 12 of which may be home study, taken within the year prior to licensure.

Chapter 64B11-4 Standards of Practice

64B11-4.001 Use of Prescription Devices.

(1) Electrical Stimulation Device.

(a) Use of an electrical stimulation device for which a prescription is required by Federal law, 21 C.F.R. §801.109, is expressly prohibited by section 468.203(4), F.S., except by an occupational therapist or an occupational therapy assistant who has received training as prescribed in this rule.

(b) For purposes of this rule, an “electrical stimulation device” is any device for which a prescription is required which employs transcutaneous electric current (direct, alternating, or pulsatile) for therapeutic purposes.

(c) The training required for students, postgraduates, and licensees to qualify for the use of an electrical stimulation device shall include didactic training of at least four (4) hours and performance of at least five (5) treatments under supervision. The required training may be obtained through educational programs, workshops, or seminars offered at a college or university approved for training of occupational therapists by the American Occupational

Therapy Association or of physical therapists by the American Physical Therapy Association or at clinical facilities affiliated with such accredited colleges or universities or through educational programs offered by the American Society of Hand Therapists or Florida Occupational Therapy Association. Online courses are not approved for the didactic or performance training.

(d) Supervised treatment sessions shall be conducted under the personal supervision of licensed occupational therapists and occupational therapy assistants who have completed four hours of coursework in the use of electrical stimulation devices and five (5) supervised treatments or licensed physical therapists and physical therapist assistants trained in the use of electrical stimulation devices. Treatment supervisors must have a minimum of 24 months prior experience in the use of electrical stimulation devices. Personal supervision means that the supervisor is in the room with the trainees and actively provides guidance and supervision of the performance treatments.

(e) The training provided which teaches the therapeutic uses of electrical stimulation devices shall provide for the following minimum competency level:

1. Standards.
 - a. The expected outcome of treatments with Therapeutic Electrical Current (hereinafter T.E.C.) must be consistent with the goals of treatment.
 - b. Treatment with T.E.C. must be safe, administered to the correct area, and be of proper dosage.
 - c. Treatment with T.E.C. must be adequately documented.
2. Current Duration and Mode.
 - a. Ability to determine the duration and mode of current appropriate to the patient's neurophysiological status while understanding Ohm's Law of electricity, physical laws related to the passage of current through various media, as well as impedance.
 - b. Ability to describe normal electrophysiology of nerve and muscle; understanding generation of bioelectrical signals in nerve and muscle; recruitment of motor units in normal muscle and in response to a variety of external stimuli.
 - c. Ability to describe normal and abnormal tissue responses to external electrical stimuli while understanding the differing responses to varieties of current duration, frequency and intensity of stimulation.
3. Selection of Method and Equipment.
 - a. Ability to identify equipment with the capability of producing the preselected duration and mode.
 - b. Ability to describe characteristics of electrotherapeutic equipment and understanding the therapeutic value of different electrotherapeutic equipment.
 - c. Ability to describe safety regulations governing the use of electrotherapeutic equipment.
 - d. Ability to describe principles of electrical currents.
 - e. Ability to describe requirements/idiosyncrasies of body areas and pathological conditions with respect to electrotherapeutic treatment.
4. Preparation of Treatment.

Ability to prepare the patient for treatment through positioning and adequate instructions.
5. Treatment Administration.
 - a. Ability to correctly operate equipment and appropriately adjust the intensity and current while understanding rate of stimulation, identification of motor points, and physiological effects desired.
 - b. Ability to adjust the intensity and rate to achieve the optimal response, based

on the pertinent evaluative data.

6. Documentation of Treatments.

Ability to document treatment including immediate and long-term effects of therapeutic electrical current.

(f) Any occupational therapist or occupational therapy assistant who uses such electrical stimulation device shall, upon request of the Board, or the Department, present proof that he or she has obtained the training required by this rule.

(2) Ultrasound Device.

(a) Use of an ultrasound device for which a prescription is required by Federal law, 21 C.F.R. §801.109, is expressly prohibited by section 468.203(4), F.S., except by an occupational therapist or occupational therapy assistant who has received training as prescribed in this rule.

(b) For purposes of this rule, an "ultrasound device" is any device intended to generate and emit ultrasonic radiation for therapeutic purposes at ultrasonic frequencies above 100 kilohertz (kHz).

(c) The training required for students, postgraduates, and licensees to qualify for the use of an ultrasonic stimulation device shall include didactic training of at least four (4) hours and performance of at least five (5) treatments under supervision. The required training may be obtained through educational programs, workshops, or seminars offered at a college or university approved for training of occupational therapists by the American Occupational Therapy Association or of physical therapists by the American Physical Therapy Association or at clinical facilities affiliated with such accredited colleges or universities or educational programs offered through the American Society of Hand Therapists or Florida Occupational Therapy Association. Online courses are not approved for the didactic or performance training.

(d) Supervised treatment sessions shall be conducted under the personal supervision of licensed occupational therapists and occupational therapy assistants who have completed four hours of coursework in the use of ultrasound devices and five (5) supervised treatments or licensed physical therapists and physical therapist assistants trained in the use of ultrasound devices. Treatment supervisors must have a minimum of 24 months prior experience in the use of ultrasound devices. Personal supervision means that the supervisor is in the room with the trainees and actively provides guidance and supervision of the performance treatments.

(e) The training provided which teaches the therapeutic uses of ultrasound devices shall provide for the following minimum competency level:

1. Standards.

- a. The expected outcome of treatment with ultrasound must be consistent with the goals of treatment.
- b. Treatment with ultrasound must be safely administered to the correct area, and be of proper dosage.
- c. Treatment with ultrasound must be adequately documented.

2. Instrumentation.

- a. Ability to describe the physiological effects of pulsed versus continuous modes as well as differentiate tissue responses to the modes of application.
- b. Ability to describe ultrasound absorption characteristics of various body tissues and identify sources and causes of excessive absorption in normal versus abnormal tissue.
- c. Ability to determine the medium to be used and the temperature of that medium.

- d. Ability to select the appropriate sound head size and contour considering the area and condition being treated.
 - e. Ability to describe equipment characteristics, indications and contraindications for treatment, including identifying source and mechanisms of generation of ultrasound energy and its transmission through air and physical matter.
 - 3. Preparation for Treatment. Ability to prepare the patient for treatment through positioning and adequate instruction.
 - 4. Determination of Dosage. Ability to determine dosage through determination of target depth, chronicity versus acuteness of the condition, and application of power/dosage calculation rules.
 - 5. Treatment Administration. Ability to administer treatment through identification of controls, sequence of operation, correct sound head application techniques and application of all safety rules and precautions.
 - 6. Documentation of Treatment. Ability to document treatment, including immediate and long-term effects of clinical ultrasound.
- (f) Any occupational therapist or occupational therapy assistant who uses such ultrasound device shall, upon request of the Board, or the Department, present proof that he or she has obtained the training required by this rule.
- (3) Neurofeedback Device.
- (a) Use of a neurofeedback device for which a prescription is required by Federal law, 21 C.F.R. §801.109, is expressly prohibited by Section 468.203(4), F.S., except by an occupational therapist or occupational therapy assistant who has received training as prescribed in this rule.
 - (b) For purposes of this rule, a “neurofeedback device” is any device that provides immediate feedback from a computer-based program that measures brainwave activity with the use of sound, visual and/or tactile input to cue the brain to reorganize and retrain itself.
 - (c) The training required for students, postgraduates, and licensees to qualify for the use of a neurofeedback device shall include didactic training of at least sixteen (16) hours and performance of at least five (5) treatments under supervision. The required training may be obtained through educational programs, workshops, or seminars offered at a college or university approved for training of occupational therapists by the American Occupational Therapy Association or of physical therapists by the American Physical Therapy Association or at clinical facilities affiliated with such accredited colleges or universities or educational programs offered through the American Society of Hand Therapists or Florida Occupational Therapy Association. Online courses are not approved for the didactic or performance training.
 - (d) Supervised treatment sessions shall be conducted under the personal supervision of licensed occupational therapists and occupational therapy assistants who have completed sixteen (16) hours of coursework in the use of neurofeedback devices and five (5) supervised treatments, licensed physical therapists and physical therapist assistants who have completed sixteen(16) hours of coursework in the use of neurofeedback devices and five (5) supervised treatments, medical doctors trained in the use of neurofeedback devices, psychologists trained in the use of neurofeedback devices, or other licensed healthcare professionals trained in the use of neurofeedback devices. Treatment supervisors must have a minimum of 24 months prior experience in the use of neurofeedback devices. Personal supervision means that the supervisor is in the room with the trainees and actively provides guidance and supervision of the performance treatments.

- (e) The training provided which teaches the therapeutic uses of neurofeedback devices shall provide for the following minimum competency level:
1. Standards.
 - a. The expected outcome of training with neurofeedback devices must be consistent with the goals of treatment.
 - b. Training with neurofeedback devices must be safely administered to the scalp.
 - c. Training with neurofeedback devices must be adequately documented.
 2. Instrumentation.
 - a. Ability to describe core concepts, methods, and instrumentation of neurofeedback.
 - b. Ability to interpret the EEG (electroencephalogram) with respect to signal integrity and the presence of artifacts.
 - c. Ability to understand and describe concepts of frequency and amplitude.
 - d. Ability to create, adjust and adapt training protocols based on the EEG, clinical observation, and response to training.
 - e. Ability to describe equipment characteristics, indications and contraindications for training.
 3. Preparation for Training. Ability to prepare the patient for training through positioning and adequate instruction.
 4. Determination of training duration and intensity.
 - a. Ability to discern when a trainee exhibits limited tolerance for an extended training session.
 - b. Ability to judge the pacing of training sessions based on tolerance and response to the training session.
 5. Training Administration. Ability to administer neurofeedback training through identification of controls, sequence of operation, and application of all safety rules and precautions.
 6. Documentation of Neurofeedback Training. Ability to document training, including immediate and long-term effects of clinical neurofeedback training.
- (f) Any occupational therapist or occupational therapy assistant who uses such neurofeedback device shall, upon request of the Board, or the Department, present proof that he or she has obtained the training required by this rule.

64B11-4.002 Occupational Therapy Aides and Other Unlicensed Personnel Involved in the Practice of Occupational Therapy.

(1) An occupational therapy aide is an unlicensed person who assists in the practice of occupational therapy, who works under the direct supervision of a licensed occupational therapist or occupational therapy assistant and whose activities require an understanding of occupational therapy but do not require professional or advanced training in the practice of occupational therapy. An occupational therapy aide is a worker who is trained on the job to provide support services to occupational therapists and occupational therapy assistants. The term occupational therapist aide as used in this section means any unlicensed personnel involved in the practice of occupational therapy.

(2) A licensed occupational therapist or occupational therapy assistant may delegate to occupational therapy aides only specific tasks which are neither evaluative, assessive, task selective nor recommending in nature, and only after insuring that the aide has been appropriately trained for the performance of the task. All delegated patient related tasks must be carried out under direct supervision, which means that the aide must be within the line of vision of the supervising occupational therapist or occupational therapy assistant.

- (3) Any duties assigned to an occupational therapy aide must be determined and appropriately supervised by a licensed occupational therapist or occupational therapy assistant and must not exceed the level of training, knowledge, skill, and competence of the individual being supervised. The licensed occupational therapist or occupational therapy assistant is totally and wholly responsible for the acts or actions performed by any occupational therapy aide functioning in the occupational therapy setting.
- (4) Occupational therapy aides may perform ministerial duties, tasks and functions without direct supervision which shall include, but not be limited to:
 - (a) Clerical or secretarial activities;
 - (b) Transportation of patients/clients;
 - (c) Preparing, maintaining or setting up of treatment equipment and work area;
 - (d) Taking care of patients'/clients' personal needs during treatment.
- (5) Occupational therapy aides shall not perform tasks that are either evaluative, assessive, task selective or recommending in nature which shall include, but not be limited to:
 - (a) Interpret referrals or prescriptions for occupational therapy services;
 - (b) Perform evaluative procedures;
 - (c) Develop, plan, adjust, or modify treatment procedures;
 - (d) Act on behalf of the occupational therapist in any matter related to direct patient care which requires judgment or decision making except when an emergency condition exists;
 - (e) Act independently or without direct supervision of an occupational therapist;
 - (f) Patient treatment;
 - (g) Any activities which an occupational therapy aide has not demonstrated competence in performing.

64B11-4.003 Standards of Practice; Discipline.

- (1) Purpose. The legislature created the Board to assure protection of the public from persons who do not meet minimum requirements for safe practice or who pose a danger to the public. Pursuant to section 456.079, F.S., the Board provides within this rule disciplinary guidelines which shall be imposed upon applicants or licensees whom it regulates under part III, chapter 468, F.S. The purpose of this rule is to notify applicants and licensees of the ranges of penalties which will routinely be imposed unless the Board finds it necessary to deviate from the guidelines for the stated reasons given within this rule. Each range includes the lowest and highest penalty and all penalties falling between. The purposes of the imposition of discipline are to punish the applicants or licensees for violations and to deter them from future violations; to offer opportunities for rehabilitation, when appropriate; and to deter other applicants or licensees from violations.
- (2) Among the range of punishments including any and all in section 456.072(2), F.S., in increasing severity are:
 - (a) Letter of concern and a minimum administrative fine of \$100, remedial education, and/or refund of fees billed.
 - (b) Probation with conditions to include limitations on the type of practice or practice setting, requirements of supervision, employer and self reports, periodic appearances before the Board, counseling or participation in the Professionals Resource Network (PRN), payment of administrative fines, and such conditions to assure protection of the public. The licensee may choose any licensed health care professional to be a supervisor. The supervisor should ideally provide such services without compensation. However, the licensee may contract with a for-profit entity for a fee. It is the licensee's full responsibility to pay for any supervision services. All potential supervisors must be approved by the Board before providing services. The Board Chair, or any other member designated by the Board, is delegated the authority to review all potential supervisors for adequacy.

- (c) Suspension until the licensee appears before the Board to demonstrate current competency and ability to practice safely and compliance with any previous Board orders.
 - (d) Licensure with conditions.
 - (e) Denial of licensure.
 - (f) Permanent Revocation.
- (3) Aggravating and Mitigating Circumstances. Based upon consideration of aggravating and mitigating factors present in an individual case, the Board may deviate from the penalties recommended below. The Board shall consider as aggravating or mitigating factors the following:
- (a) Exposure of patients or public to injury or potential injury, physical or otherwise; none, slight, severe, or death;
 - (b) Legal status at the time of the offense; no restraints, or legal constraints;
 - (c) The number of counts or separate offenses established;
 - (d) The disciplinary history of the applicant or licensee in any jurisdiction and the length of practice;
 - (e) Pecuniary benefit or self-gain inuring to the applicant or licensee;
 - (f) Any efforts at rehabilitation, attempts by the licensee to correct or to stop violations, or refusal by the licensee to correct or to stop violations;
 - (g) Any other relevant mitigating or aggravating factors.

64B11-4.005 Citations.

- (4) The Board designates the following as citation violations:
- (a) Practicing with an inactive license, up to six months, for which the Board shall impose a \$100 per month penalty for each full month or partial month that the license is inactive.
 - (b) Practicing with a delinquent license, up to six months, for which the Board shall impose a \$100 per month penalty for each full month or partial month the license is delinquent.
 - (c) Practicing with a retired status license, up to six months, for which the Board shall impose a \$100.00 per month penalty for each full month or partial month the license is in retired status.
 - (d) Submitting a worthless check to the Board or the Department. The penalty shall be \$100.00 dollars, replacement of the amount of the check if a license was issued based on it, and costs incurred by processing the check.
 - (e) First time failure to complete required continuing education hours, which includes but is not limited to required HIV/AIDS, during the biennial licensure period. The fine shall be \$50.00 per hour for each hour of deficiency, up to a maximum fine of \$1,000.00. In addition, licensees shall make up the deficient continuing education and take one additional hour of continuing education for each of the continuing education deficiencies, which shall not count towards meeting the continuing education renewal requirements for the next biennium. All such made up continuing education hours and additional continuing education hours shall be completed and documentation of same shall be provided to the department within 90 days of the date the citation is filed.
 - (f) Failure to maintain on file a current address, or failure to timely notify the Board of a change of address, as required by Rule 64B11-4.007, F.A.C.
 - (g) Failure to timely provide records to a patient or patient's legal representative upon request as required by subsection 456.057(6), F.S., for which the Board shall impose a \$100.00 fine per week for each full week the records are not provided, up to a maximum of \$500.00.
 - (h) Overcharging a patient or patient's legal representative for medical records, for which the Board shall impose a \$100.00 fine;
 - (i) Failure to timely pay fines and costs, for which the Board shall impose a \$100.00 fine per month for each full and partial month the fine or costs are overdue; and
 - (j) Advertising violations, for which the Board shall impose a \$100.00 fine per violation.

64B11-4.007 Address of Licensee.

Each person holding a license must maintain with the Board a current mailing address and the address of the current place of practice if different from the current mailing address. The licensee shall notify the Board in writing of any change of address within 60 days, whether or not within this state.

Chapter 64B11-5 Licensure Status and Fees

64B11-5.001 Requirements for License Renewal of an Active License.

Continuing education includes attendance and participation as required at approved live or interactive presentations such as workshop, seminar, conference, webinar, or in-service educational programs. It may also include participation in other approved professional activities, such as pro bono and expert witness services, or those that require a formal assessment of learning, such as formalized self-study courses and other non-interactive learning programs. An active license shall be renewed upon demonstration that the licensee has paid the renewal fee set forth in Rule 64B11-2.009, F.A.C., and has complied with the following requirements:

(1) As a condition to the renewal of an active license, an occupational therapist must complete twenty-six (26) hours of approved continuing education per biennium.

(2) As a condition to the renewal of an active license, an occupational therapy assistant must complete twenty-six (26) hours of approved continuing education per biennium.

(3) At least fourteen (14) of the required hours per biennium must be in person or from interactive, real-time courses. An interactive, real-time course may be a web-based, satellite transmitted, telephone or video conference, or online instruction program that allows or requires the licensee to interact in real time, including live chat, with the instructor during the presentation of the program or in a question and answer session upon completion of the program.

(4) Home Study – A licensee may receive continuing education credit for no more than twelve (12) hours of home study education per biennium. Home study education is a self-paced, non-interactive independent study that requires a certificate of completion. Taking a computerized exam at the end of the study, or being able to email the instructor with a question, does not qualify home study as a live or interactive course. Consistent with Section 456.013(8), F.S., continuing education credit for video presentations is limited to five (5) credits per subject. At the time of course presentation, rental, or sale, the course vendor, in lieu of the certificate of completion, shall provide the licensee with a signed course validation form. The licensee shall sign this form on the date that the course is actually taken or viewed indicating full attendance and successful completion. It shall be retained by the licensee for four (4) years.

(5) HIV/AIDS – The licensee shall complete one (1) hour of HIV/AIDS education as set forth in Section 456.033, F.S., no later than upon first renewal. HIV/AIDS courses approved by any Board within the Division of Medical Quality Assurance of the Department of Health pursuant to Section 456.033, F.S., are approved by this Board. A licensee is not required to complete an HIV/AIDS course for each subsequent renewal biennium.

(6) Medical Errors – Each licensee shall attend and certify attending a Board-approved 2-hour continuing education course relating to the prevention of medical errors. The 2-hour course shall count toward the total number of continuing education hours required for licensure renewal. The course shall include a study of root-cause analysis, error reduction and prevention, and patient safety, and must also include contraindications and indications specific to occupational therapy management including medication and side effects.

(7) Laws and Rules – As part of the twenty-six (26) hours of continuing education required herein for licensure renewal, each licensee shall attend a two (2) hour Board approved course on

laws and rules covering Chapters 456 and 468, Part III, F.S., and Division 64B11, F.A.C.

(8) Exemption – Those persons certified for licensure in the second half of the biennium are exempt from the continuing education requirements for that biennium, except for the two (2) hour prevention of medical errors course requirement referenced above and required by Section 456.013, F.S., and the one (1) hour of HIV/AIDS education required no later than upon first renewal, as set forth in Section 456.033, F.S.

(9) Changes of Status – Active status licensees may apply to the Board for inactive license status at any time by paying a \$50.00 fee to change licensure status. Additionally, the licensee shall pay any applicable inactive status renewal fee or delinquent fee.

(10) Course Presentation and Attendance at Board Meetings – A maximum of eight (8) contact hours may be awarded per biennium for the following professional activities:

(a) The presentation of a continuing education course or program, academic course, peer-reviewed or non peer-reviewed workshop, seminar, in-service, electronic or web-based course that is directly related to the practice of occupational therapy as either the lecturer of the course or program or as the author of the course materials. Each licensee who is participating as either a lecturer or author of a continuing education course or program may receive credit for the portion of the offering he/she presented or authored up to the total hours awarded for the offering.

1. Continuing education credit may be awarded to a lecturer or author for the initial presentation of each course or program only; except in the case of the medical errors and laws and rules courses, repeat presentations of the same continuing education course or program shall not be granted credit. Continuing education credit for presentations of either medical errors or laws and rules courses is limited to four (4) credits per biennium.

2. In order for a continuing education credit to be awarded to each licensee participating as either lecturer or author, the format of the continuing education course or program must conform with all applicable sections of this rule chapter.

3. Documentation shall include a copy of the official program/schedule/syllabus including presentation title, date, hours of presentation, and type of audience or verification of such signed by the sponsor.

4. The number of contact hours to be awarded to each licensee who participates in a continuing education course or program as either a lecturer or author is based on the 50 minute contact hour employed within this rule chapter.

5. Continuing education credit for the development and teaching of postsecondary academic courses shall be one (1) continuing education credit per academic course credit.

(b) Attendance at Florida Board of Occupational Therapy Practice meetings. Each licensee who attends a Florida Board of Occupational Therapy Practice meeting where disciplinary cases are being heard, if the licensee is not on the agenda or appearing for another purpose, may receive continuing education credit. Active Board and Probable Cause Panel members who are licensed occupational therapists or occupational therapy assistants are eligible to receive continuing education credits for their service, except that a current Board member may not receive credit for serving as a probable cause panel member. The number of contact hours awarded for such attendance or service is based on the definition of a contact hour as set forth in paragraph 64B11-6.001(5)(d), F.A.C.

(11) Fieldwork or Doctoral Capstone Experience – A licensee may earn up to six (6) continuing education hours per biennium for supervision of a Level II Occupational Therapy or Occupational Therapy Assistant fieldwork or entry level doctoral capstone student at the rate of no more than three (3) hours per student. To be eligible for the credit, the licensee must participate as the primary clinical fieldwork educator for the student. Documentation shall include verification provided by the school to the fieldwork educator with the name of the student, school, and dates of fieldwork or the signature page of the completed student

evaluation form. Evaluation scores and comments shall be deleted or blocked out. The doctoral capstone is an in-depth exposure to one or more of the following: clinical practice skills, research skills, administration, leadership, program and policy development, advocacy, education, and theory development.

(12) Publications – A licensee may earn the following continuing education credit for publication of a peer-reviewed or non peer-reviewed book, chapter, or article directly related to the practice of occupational therapy:

(a) 10 hours as the author of a book;

(b) 5 hours as author of a chapter;

(c) 3 hours as author of a peer-reviewed article;

(d) 1 hour as author of a non peer-reviewed article; and,

(e) 5 hours as an editor of a book; Documentation shall consist of a full reference for the publication including title, author, editor, and date of publication.

(13) Research – A licensee may earn one (1) hour of continuing education credit for each ten (10) hours spent in development of or participation in a research project specific to and directly related to the practice of occupational therapy, up to a limit of five (5) hours of credit per biennium. Documentation shall include verification from the primary investigator indicating the name of the research project, dates of participation, major hypotheses or objectives of the project, and the licensee's role in the project.

(14) Volunteer Expert Witness – Any volunteer expert witness who is providing expert witness opinions for cases being reviewed pursuant to Chapter 468, Part III, F.S., the Occupational Therapy Practice Act, shall receive three (3) hours of credit for each case reviewed. A volunteer expert witness may not accrue in excess of six (6) credit hours per biennium pursuant to this subsection.

(15) Performance of Pro Bono Services – A licensee may receive up to six (6) hours per biennium of continuing education credit through the performance of pro bono services to the indigent as provided in Section 456.013(9), F.S., or to underserved populations, or in areas of critical need within the state where the licensee practices. In order to receive credit under this rule, licensees must make a written request to the Board and receive approval prior to performing pro bono services in advance. One (1) hour credit shall be given for each two (2) hours worked. In the written request, licensees shall disclose the type, nature and extent of services to be rendered, the facility where the services will be rendered, the number of patients expected to be serviced, and a statement indicating that the patients to be served are indigent. If the licensee intends to provide services in underserved or critical need areas, the written request shall provide a brief explanation as to those facts.

64B11-5.003 Requirements for Reactivation of an Inactive License.

(1) An inactive license for an occupational therapist or occupational therapist assistant shall be reactivated upon demonstration that the licensee has satisfied the following requirements:

(a) Paid the reactivation fee and any applicable delinquent or renewal fees as set forth in Rule 64B11-5.006, F.A.C.;

(b) Unless exempted by subsection 64B11-5.001(8), F.A.C., completed 26 hours of approved continuing education for each full biennium in which the license was in an inactive status and for the last biennium in which the licensee held an active status license;

(c) Unless exempted by subsection 64B11-5.001(8), F.A.C., completed a two hour course on laws and rules (as required by subsection 64B11-5.001(6), F.A.C.) for each full biennium in which the licensee was in an inactive status and for the last biennium in which the licensee held an active status license. This requirement shall count towards the 26 total biennial hourly requirements, as applicable;

(d) Completion of two (2) hours of approved continuing education relating to the prevention of medical errors, as authorized and prescribed in subsection 64B11-5.001(6), F.A.C., for each full biennium in which the licensee was in an inactive status and for the last biennium in which the licensee held an active status license.

(2) A licensee may perform no more than twelve (12) hours of continuing education as home study education for each full biennium in which the licensee was in an inactive status and for the last biennium in which the licensee held an active status license.

(3) No provision of this section shall be construed to require the completion of continuing education in any specific subject area, for any biennial period in which continuing education in that subject area was not specifically required by law for renewal of an active license.

(4) The continuing education credits required by this section for reactivation may be earned at any time during the inactive licensure period. Credits allowed to meet this requirement may also include up to 26 hours of approved continuing education credits earned during the last biennium in which the licensee held an active status license.

(5) The provisions of Rule 64B11-2.012, F.A.C., are not applicable to licensees reactivating inactive licenses.

64B11-5.0065 Exemption of Spouse of Member of Armed Forces from License Renewal Requirements.

A licensee who is the spouse of a member of the Armed Forces of the United States shall be exempt from all licensure renewal provisions for any period of time which the licensee is absent from the State of Florida due to the spouse's duties with the Armed Forces. The licensee must document the absence and the spouse's military status to the Board.

Chapter 64B11-6 Continuing Education

64B11-6.001 Continuing Education Program Approval.

(1) Continuing education credit will be awarded only for completion of licensed programs or those that are Board-approved as provided in this rule. Continuing education program providers seeking initial licensure approval by the Board shall pay a fee of \$250. Continuing education providers seeking renewal of provider status shall also pay a \$250 fee each biennium. To receive Board approval, a continuing education program:

(a) Should be submitted for the Board's approval not less than 90 days prior to the date the initial offering is scheduled;

(b) Shall be relevant to the practice of occupational therapy as defined in section 468.203(4), F.S., must be offered for the purpose of keeping the licensee apprised of advancements and new development in occupational therapy, and shall be designed to enhance learning and skills consistent with contemporary standards for occupational therapy practice.

(c) Shall have its sponsor submit to the Board at least the following:

1. A statement of the educational goals and objectives of the program,
2. A detailed course outline or syllabus, including such items as method of instruction, testing materials, if any, and identify whether the course is interactive or noninteractive,
3. A current curriculum vitae of each speaker or lecturer appearing in the program,
4. The procedure to be used for recording attendance of these attendees seeking to apply for continuing education credit and the procedure for certification by the program's registrar of attendance; and,
5. A sample certificate of completion.

(2) When attending an approved program, a licensee must attest by signature that he or she has attended the workshop and attendance must be certified by the program's registrar.

Florida Occupational Therapy Laws & Rules

(3) The provider shall maintain records of each course offering for 4 years following each licensure biennium during which the course was offered. Course records shall include a detailed course outline which reflects its educational objectives, the instructor's name, the date and location of the course, the participants' evaluations of the course, the hours of continuing education credit awarded for each participant and a roster of participants by name and license number. The Board, as a condition of a program or provider approval, may audit an approved provider. Upon being audited by the Board, the provider shall provide within 30 days all the documentation listed above in this subsection and such additional information as requested by the Board.

(4)(a) Programs meeting the above criteria and offered by the Florida Occupational Therapy Association (FOTA), the American Occupational Therapy Association (AOTA), providers sanctioned by the FOTA or approved by the AOTA, and occupational therapy courses, meeting the above criteria, provided by an education program approved by an accrediting body for occupational therapy shall be approved by this Board for continuing education and shall not pay the fees required in subsection (1) of this rule.

(b) Courses sponsored by a college or university when providing a curriculum for occupational therapists or occupational therapy assistants shall be awarded 10 hours of continuing education credit per semester hour and shall be verified by official transcripts.

(5) Courses and programs not approved in subsection (1) or (4), above, shall be approved as appropriate continuing education if said course or program meets the following criteria:

(a) The content of the course or program is relevant to the practice of occupational therapy as defined in paragraph (1)(b) of this rule.

(b) The course or program is presented by instructor(s) who possess appropriate education, experience and credentials relevant to the course or program's subject matter.

(c) The course or program's educational goals, objectives and teaching methods are adequately identified in promotional materials.

(d) The course or program must be presented in a time block of at least one half contact hour. "One (1) contact hour" equals a minimum of fifty (50) minutes. One half (1/2 or .5) contact hours equals a minimum of twenty-five (25) minutes.

(e) The provider of the course or program must present a certificate indicating full attendance and successful completion of the course or program to each licensee.

(f) The licensee must retain such receipts, vouchers, certificates, or other papers to document completion of the required continuing education for a period of not less than four (4) years from the date the course was taken.

Florida Patient's Bill of Rights and Responsibilities Chapter 381.026 of the Florida Statutes

The preceding information obtained from Chapter 381.026 of the 2022 Florida Statutes has been abridged. If you would like to read the statutes in their entirety, please go to: http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0300-0399/0381/Sections/0381.026.html

381.026 Florida Patient's Bill of Rights and Responsibilities.

(4) Rights of patient. - Each health care facility or provider shall observe the following standards:

(a) Individual dignity

1. The individual dignity of a patient must be respected at all times and upon all occasions.

2. Every patient who is provided health care services retains certain rights to privacy, which must be respected without regard to the patient's economic status or source of payment for his or her care. The patient's rights to privacy must be respected to the extent consistent with providing adequate medical care to the patient and with the efficient administration of the health care facility or provider's office. However, this subparagraph does not preclude necessary and discreet discussion of a patient's case or examination by appropriate medical personnel.
3. A patient has the right to a prompt and reasonable response to a question or request. A health care facility shall respond in a reasonable manner to the request of a patient's health care provider for medical services to the patient. The health care facility shall also respond in a reasonable manner to the patient's request for other services customarily rendered by the health care facility to the extent such services do not require the approval of the patient's health care provider or are not inconsistent with the patient's treatment.
4. A patient in a health care facility has the right to retain and use personal clothing or possessions as space permits, unless for him or her to do so would infringe upon the right of another patient or is medically or programmatically contraindicated for documented medical, safety, or programmatic reasons.
5. A patient receiving care in a health care facility or in a provider's office has the right to bring any person of his or her choosing to the patient-accessible areas of the health care facility or provider's office to accompany the patient while the patient is receiving inpatient or outpatient treatment or is consulting with his or her health care provider, unless doing so would risk the safety or health of the patient, other patients, or staff of the facility or office or cannot be reasonably accommodated by the facility or provider.

(b) Information.

1. A patient has the right to know the name, function, and qualifications of each health care provider who is providing medical services to the patient. A patient may request such information from his or her responsible provider or the health care facility in which he or she is receiving medical services.
2. A patient in a health care facility has the right to know what patient support services are available in the facility.
3. A patient has the right to be given by his or her health care provider information concerning diagnosis, planned course of treatment, alternatives, risks, and prognosis, unless it is medically inadvisable or impossible to give this information to the patient, in which case the information must be given to the patient's guardian or a person designated as the patient's representative. A patient has the right to refuse this information.
4. A patient has the right to refuse any treatment based on information required by this paragraph, except as otherwise provided by law. The responsible provider shall document any such refusal.
5. A patient in a health care facility has the right to know what facility rules and regulations apply to patient conduct.
6. A patient has the right to express grievances to a health care provider, a health care facility, or the appropriate state licensing agency regarding alleged violations of patients' rights. A patient has the right to know the health care provider's or health care facility's procedures for expressing a grievance.
7. A patient in a health care facility who does not speak English has the right to be provided an interpreter when receiving medical services if the facility has a person readily available who can interpret on behalf of the patient.
8. A health care provider or health care facility shall respect a patient's right to privacy and should refrain from making a written inquiry or asking questions concerning the ownership of a firearm or ammunition by the patient or by a family member of the patient, or the presence of a

firearm in a private home or other domicile of the patient or a family member of the patient. Notwithstanding this provision, a health care provider or health care facility that in good faith believes that this information is relevant to the patient's medical care or safety, or safety of others, may make such a verbal or written inquiry.

9. A patient may decline to answer or provide any information regarding ownership of a firearm by the patient or a family member of the patient, or the presence of a firearm in the domicile of the patient or a family member of the patient. A patient's decision not to answer a question relating to the presence or ownership of a firearm does not alter existing law regarding a physician's authorization to choose his or her patients.

10. A health care provider or health care facility may not discriminate against a patient based solely upon the patient's exercise of the constitutional right to own and possess firearms or ammunition.

11. A health care provider or health care facility shall respect a patient's legal right to own or possess a firearm and should refrain from unnecessarily harassing a patient about firearm ownership during an examination.

(c) Financial information and disclosure.

1. A patient has the right to be given, upon request, by the responsible provider, his or her designee, or a representative of the health care facility full information and necessary counseling on the availability of known financial resources for the patient's health care.

2. A health care provider or a health care facility shall, upon request, disclose to each patient who is eligible for Medicare, before treatment, whether the health care provider or the health care facility in which the patient is receiving medical services accepts assignment under Medicare reimbursement as payment in full for medical services and treatment rendered in the health care provider's office or health care facility.

3. A primary care provider may publish a schedule of charges for the medical services that the provider offers to patients. The schedule must include the prices charged to an uninsured person paying for such services by cash, check, credit card, or debit card. The schedule must be posted in a conspicuous place in the reception area of the provider's office and must include, but is not limited to, the 50 services most frequently provided by the primary care provider. The schedule may group services by three price levels, listing services in each price level. The posting must be at least 15 square feet in size. A primary care provider who publishes and maintains a schedule of charges for medical services is exempt from the license fee requirements for a single period of renewal of a professional license under chapter 456 for that licensure term and is exempt from the continuing education requirements of chapter 456 and the rules implementing those requirements for a single 2-year period.

4. If a primary care provider publishes a schedule of charges pursuant to subparagraph 3., he or she must continually post it at all times for the duration of active licensure in this state when primary care services are provided to patients. If a primary care provider fails to post the schedule of charges in accordance with this subparagraph, the provider shall be required to pay any license fee and comply with any continuing education requirements for which an exemption was received.

5. A health care provider or a health care facility shall, upon request, furnish a person, before the provision of medical services, a reasonable estimate of charges for such services. The health care provider or the health care facility shall provide an uninsured person, before the provision of a planned nonemergency medical service, a reasonable estimate of charges for such service and information regarding the provider's or facility's discount or charity policies for which the uninsured person may be eligible. Such estimates by a primary care provider must be consistent with the schedule posted under subparagraph 3. Estimates shall, to the extent possible, be written in language comprehensible to an ordinary layperson. Such reasonable

estimate does not preclude the health care provider or health care facility from exceeding the estimate or making additional charges based on changes in the patient's condition or treatment needs.

6. Each licensed facility, except a facility operating exclusively as a state facility, shall make available to the public on its website or by other electronic means a description of and a hyperlink to the health information that is disseminated by the agency pursuant to s. 408.05(3). The facility shall place a notice in the reception area that such information is available electronically and the website address. The licensed facility may indicate that the pricing information is based on a compilation of charges for the average patient and that each patient's statement or bill may vary from the average depending upon the severity of illness and individual resources consumed. The licensed facility may also indicate that the price of service is negotiable for eligible patients based upon the patient's ability to pay.

7. A patient has the right to receive a copy of an itemized statement or bill upon request. A patient has a right to be given an explanation of charges upon request.

(d) Access to health care.

1. A patient has the right to impartial access to medical treatment or accommodations, regardless of race, national origin, religion, handicap, or source of payment.

2. A patient has the right to treatment for any emergency medical condition that will deteriorate from failure to provide such treatment.

3. A patient has the right to access any mode of treatment that is, in his or her own judgment and the judgment of his or her health care practitioner, in the best interests of the patient, including complementary or alternative health care treatments, in accordance with the provisions of s. 456.41.

(e) Experimental research. a patient has the right to know if medical treatment is for purposes of experimental research and to consent prior to participation in such experimental research. For any patient, regardless of ability to pay or source of payment for his or her care, participation must be a voluntary matter; and a patient has the right to refuse to participate. The patient's consent or refusal must be documented in the patient's care record.

(f) Patient's knowledge of rights and responsibilities. - In receiving health care, patients have the right to know what their rights and responsibilities are.

(5) Responsibilities of patients. - Each patient of a health care provider or health care facility shall respect the health care provider's and health care facility's right to expect behavior on the part of patients which, considering the nature of their illness, is reasonable and responsible. Each patient shall observe the responsibilities described in the following summary.

(6) Summary of rights & responsibilities. - Any health care provider who treats a patient in an office or any health care facility licensed under chapter 395 that provides emergency services and care or outpatient services and care to a patient, or admits and treats a patient, shall adopt and make available to the patient, in writing, a statement of the rights and responsibilities of patients, including the following:

Summary of the Florida Patient's Bill of Rights and Responsibilities

Florida law requires that your health care provider or health care facility recognize your rights while you are receiving medical care and that you respect the health care provider's or health care facility's right to expect certain behavior on the part of patients. You may request a copy of the full text of this law from your health care provider or health care facility. A summary of your rights and responsibilities follows:

Florida Occupational Therapy Laws & Rules

A patient has the right to be treated with courtesy and respect, with appreciation of his or her individual dignity, and with protection of his or her need for privacy.

A patient has the right to a prompt and reasonable response to questions and requests.

A patient has the right to know who is providing medical services and who is responsible for his or her care.

A patient has the right to know what patient support services are available, including whether an interpreter is available if he or she does not speak English.

A patient has the right to know what rules and regulations apply to his or her conduct.

A patient has the right to be given by the health care provider information concerning diagnosis, planned course of treatment, alternatives, risks, and prognosis.

A patient has the right to refuse any treatment, except as otherwise provided by law.

A patient has the right to be given, upon request, full information and necessary counseling on the availability of known financial resources for his or her care.

A patient who is eligible for Medicare has the right to know, upon request and in advance of treatment, whether the health care provider or health care facility accepts the Medicare assignment rate.

A patient has the right to receive, upon request, prior to treatment, a reasonable estimate of charges for medical care.

A patient has the right to receive a copy of a reasonably clear and understandable, itemized bill and, upon request, to have the charges explained.

A patient has the right to impartial access to medical treatment or accommodations, regardless of race, national origin, religion, handicap, or source of payment.

A patient has the right to treatment for any emergency medical condition that will deteriorate from failure to provide treatment.

A patient has the right to know if medical treatment is for purposes of experimental research and to give his or her consent or refusal to participate in such experimental research.

A patient has the right to express grievances regarding any violation of his or her rights, as stated in Florida law, through the grievance procedure of the health care provider or health care facility which served him or her and to the appropriate state licensing agency.

A patient is responsible for providing to the health care provider, to the best of his or her knowledge, accurate and complete information about present complaints, past illnesses, hospitalizations, medications, and other matters relating to his or her health.

A patient is responsible for reporting unexpected changes in his or her condition to the health care provider.

A patient is responsible for reporting to the health care provider whether he or she comprehends a contemplated course of action and what is expected of him or her.

A patient is responsible for following the treatment plan recommended by the health care provider.

A patient is responsible for keeping appointments and, when he or she is unable to do so for any reason, for notifying the health care provider or health care facility.

A patient is responsible for his or her actions if he or she refuses treatment or does not follow the health care provider's instructions.

A patient is responsible for assuring that the financial obligations of his or her health care are fulfilled as promptly as possible.

A patient is responsible for following health care facility rules and regulations affecting patient care and conduct.

Legal / Ethical Case Studies in Occupational Therapy

Care Provided By Qualified Individuals

Case Study #1

Sally is an occupational therapy aide who has worked in rehabilitation for more than 20 years. Frequently, she is called upon to perform treatments that should be done by an OT or COTA. The patients always give her compliments, and frequently request her to treat them. She demonstrates exceptional skills and achieves outstanding outcomes.

Is the clinic providing ethical care to its patients?

The answer is no. In this situation, the aide's abilities and outcomes are considered irrelevant. The key sentence in the paragraph is: "perform treatments that should be done by an OT or COTA". The "should" in this case must not be interpreted as merely a casual suggestion but rather a legal definition regulated by the state's Occupational Therapy Practice Act. Any treatment or procedure that **should** be performed by a licensed professional, **must** be performed by a licensed professional.

Applicable references: Chapters 468.207, 456.065 of the FL Statutes, 64B11-4.002 FAC

Informed Consent

Informed consent is the process by which a fully informed patient can participate in choices about their health care. It originates from the legal and ethical right the patient has to direct what happens to their body and from the ethical duty of the therapist to involve the patient in her health care.

The most important goal of informed consent is that the patient has an opportunity to be an informed participant in their health care decisions. It is generally accepted that complete informed consent includes a discussion of the following elements:

- the nature of the decision/procedure
- reasonable alternatives to the proposed intervention
- the relevant risks, benefits, and uncertainties related to each alternative
- the consequences on non-treatment
- the goals of treatment
- the prognosis for achieving the goals
- assessment of patient understanding
- the acceptance of the intervention by the patient

In order for the patient's consent to be valid, they must be considered competent to make the decision at hand and their consent must be voluntary. It is easy for coercive situations to arise in

medicine. Patients often feel powerless and vulnerable. The therapist should make clear to the patient that they are participating in a decision, not merely signing a form. With this understanding, the informed consent process should be seen as an invitation for them to participate in their health care decisions. The therapist is also generally obligated to provide a recommendation and share their reasoning process with the patient. Comprehension on the part of the patient is equally as important as the information provided. Consequently, the discussion should be carried on in layperson's terms and the patient's understanding should be assessed along the way.

Case Study #2

Sam is an OTR who has just received orders to begin ROM with a 75-year-old woman who is s/p wrist ORIF. He goes to her hospital room to evaluate her and begin ROM. She says she does not want therapy today because she is in too much pain. Sam explains to her that the doctor has left orders for her to begin moving her wrist. The patient refuses. Sam leaves and returns the next day to try again. Again, she declines treatment and he leaves.

Under the guidelines of informed consent, were the therapist's actions adequate?

The therapist's actions were not sufficient. None of the required information was offered to the patient. The most important thing the therapist failed to explain to the patient was the consequences of non-treatment. The patient cannot make an informed decision regarding therapy without this information. It could be argued that her decision to refuse therapy may have changed had she known that one of the consequences of this decision could be the development of secondary complications. (i.e. increased risk of morbidity or mortality)

Applicable references: Chapter 381.026(4)(b)3 of the Florida Statutes

Care Based on Medical Necessity

Therapists are obligated to propose and provide care that is based on sound medical rationale, patient medical necessity, and treatment efficacy and efficiency. It is unethical and illegal to either alter or withhold care based on other extraneous factors without the patient's knowledge and consent.

Case Study #3

Steve is a physical therapist and owns his own therapy clinic. He recently signed a contract with an HMO to provide occupational therapy services. The contract stipulates that Steve will be compensated on a case rate basis. (A fixed amount of money per patient, based on diagnosis) Steve has performed a thorough cost analysis on this contract and has determined that the financial "breakeven" point (revenue equals expenses) on each of these patients is 5 visits. He informs his staff that all patients covered by this insurance must be discharged by their fourth visit.

Is limiting care in this manner legal?

No, it is not legal. In this instance, the quantity of care is not being determined by the medical necessity of the patient. A therapist must be able to justify all of their professional decisions (such as the discharging of a patient from clinical care) based on sound clinical rationale and practices.

Applicable references: Chapter 381.026(4)(d)1 of the FL Statutes

Conflict of Interest

A conflict of interest is a situation in which a person has a private or personal interest that influences the objective exercise of his or her professional duties. As a professional you take on certain responsibilities and obligations to patients, employers, and others. These obligations must take precedence over a therapist's private or personal interests. In addition to avoiding all real instances of conflict of interest, therapists must also avoid any apparent or potential conflicts as well. An apparent conflict of interest is one in which a reasonable person would think that the professional's judgment is likely to be compromised, and a potential conflict of interest involves a situation that may develop into an actual conflict of interest.

How do you determine if you are in a conflict of interest, whether actual, apparent, or potential? The key is to determine whether the situation you are in interferes or is likely to interfere with your independent judgment. A good test is the 'trust test': Would relevant others [my employer, my patients, professional colleagues, or the general public] trust my judgment if they knew I was in this situation. Trust is at the ethical heart or core of this issue. Conflicts of interest involve the abuse, actual or potential, of the trust people have placed in professionals. This is why conflicts of interest not only injure particular patients and employers, but they also damage the whole profession by reducing the trust people generally have in therapists.

Case Study #4

Debi Jones OTR works in an acute care hospital. She is meeting with a vendor whose company is introducing a new brace onto the market. He offers her 3 free braces to "try out" on patients. The vendor states that if Debi continues to order more braces, she will qualify to receive compensation from his company by automatically becoming a member of its National Clinical Assessment Panel.

Does this represent a conflict of interest?

Yes, there exists a conflict of interest in this situation. Debi has two primary obligations to fulfill. The first is to her patient. It is her professional duty to recommend to her patient a brace that, in her judgment, will benefit them the most. The second obligation is to her employer, the hospital. As an employee of the hospital it is her responsibility to manage expenses by thoroughly and objectively seeking effective products that also demonstrate economic efficiency. The conflict of interest occurs when she begins to accept compensation from the vendor in direct or indirect response for her brace orders. Even if she truly believes it is the best brace for her patient, and it is the most cost effective brace the hospital could purchase, by accepting the money she has established at least an apparent conflict of interest. Under this situation she is obligated to disclose to all parties her financial interest in ordering the braces. This disclosure is necessitated because the potential for personal gain would make others rightfully question whether her objectivity was being influenced.

Applicable references: Chapters 456.052, 456.072(n)

Relationships

It is unethical and illegal for an occupational therapist to offer **anything of value** to physicians or any other referral source **in direct response for the referral of patients or services**. This

includes cash, rebates, gifts, discounts, reduced rent, services, equipment, employees, or marketing. Many mistakenly believe that it is a normal acceptable business practice to offer these things to referral sources. It is not. In most states, the practice is not only unethical, but it is also illegal. Exchanges of valued items or services between therapists and referral sources **must never have any relationship to the referral of patients**. Goodwill gifts of nominal value are acceptable provided that no correlation can be made between the magnitude and/or frequency of the gift giving and referral patterns. All business agreements and transactions should always be well documented and most importantly, **reflect fair market value**.

Case Study #5

Larry Jones OTR owns a private practice. Business has been poor. He decides to sublease half of his space to an orthopedic surgeon. Larry's current lease is at \$20/sq ft. The doctor wants to pay \$15/sq ft. They come to a compromise of \$17/sq ft. Larry also agrees that if the doctor is his top referral source after 3 months, he'll make him the Medical Director of the facility and pay him a salary of \$500/month.

Is this a legal arrangement?

No, this agreement is not legal. The most notable infraction involves offering to designate the physician as Medical Director contingent upon the number of referrals he sends. This is undeniably a direct offer of cash for patients. Another area of concern is the rent. At first glance, the rent amount of \$17/sq ft seems fair because it was a compromise between the two parties. However, closer scrutiny reveals this to be illegal. The fair market value for rent has been established as \$20/ft. (Larry's current rental agreement with his landlord) By discounting the doctor \$3/sq ft on his rent, Larry is giving a referral source something of value.

Applicable references: Chapter 456.054 of the Florida Statutes

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Florida Occupational Therapy Laws & Rules

Post-Test

1. The Rules established by the Florida Board of Occupational Therapy are published in which of the following? (p. 3)
 - A. Chapter 381.026 of the Florida Statutes
 - B. Chapter 456 of the Florida Statutes
 - C. Chapter 468 of the Florida Statutes
 - D. Chapter 64 B11 of the Florida Administrative Code
2. The Florida Board of Occupational Therapy Practice consists of how many OTs, OTAs, and other individuals not connected with OT practice? (p. 5)
 - A. 4 OTs, 1 OTA, 2 others
 - B. 3 OTs, 2 OTAs, 2 others
 - C. 5 OTs, 0 OTAs, 2 others
 - D. 4 OTs, 2 OTAs, 1 other
3. Under which condition is it permissible for an occupational therapy licensee to engage in sexual activity with a patient? (p. 6)
 - A. The sexual relationship between the licensee and the patient is consensual.
 - B. The patient initiated the sexual relationship
 - C. Sexual activity between the licensee and the patient does not include intercourse.
 - D. Sexual activity between a licensee and a patient is never permissible.
4. It is unlawful for a Florida licensed healthcare provider to _____. (p. 11)
 - A. Give compensation to others for the referral of patients from them.
 - B. Receive compensation from others for the referral of patients to them.
 - C. Both A & B
 - D. Neither A nor B
5. Which of the following is TRUE regarding a licensee's duty to report adverse events? (p. 11)
 - A. Every licensed healthcare practitioner shall inform each patient in writing about all adverse incidents.
 - B. Notification of outcomes of care that result in harm to the patient shall constitute an acknowledgment of admission of liability.
 - C. Notification of outcomes of care that result in harm to the patient may be introduced as evidence against the healthcare practitioner.
 - D. None of the above is True

6. Occupational therapy licensees must report to the board in writing within 30 days after they have been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. (p. 13)
 - A. True
 - B. False

7. It is legal for Florida licensed occupational therapists to provide healthcare services via telecommunications technology (telehealth). (p. 15)
 - A. True
 - B. False

8. Which of the following is FALSE regarding occupational therapy use of prescription devices? (p. 16-20)
 - A. To use ES, OTs & OTAs must complete 4 hours of didactic training and 5 supervised treatments.
 - B. To use US, OTs & OTAs must complete 4 hours of didactic training and 5 supervised treatments
 - C. Supervised treatments for ES and US training may be performed under the supervision of a licensed PT or PTA.
 - D. Licensees may take online courses to fulfill their didactic or performance training requirement.

9. Occupational therapy aides must work under the direct supervision of a licensed OT or OTA. Direct supervision is defined as _____. (p. 20-21)
 - A. In the same building.
 - B. In the same room.
 - C. Within the line of vision
 - D. Within 50 feet.

10. What is the penalty the first time a licensee fails to complete all their required continuing education during a licensure period? (p. 22)
 - A. License revocation and a \$2000 fine.
 - B. 2 year license probation and \$500 fine.
 - C. A fine of \$50 per deficient hour and completion of twice the number of deficient hours within 90 days.
 - D. \$100 per week fine until the deficient hours have been completed.

11. How many hours of real-time interactive continuing education (live webinars, workshops, or conferences, etc.) must be completed each 2 year licensure period? (p. 23)
 - A. At least 14 hours
 - B. 12 hours maximum
 - C. No less than 24 hours
 - D. None, real-time interactive courses are not required

12. FL licensed OT professionals may receive up to eight (8) hours per biennium of continuing education credit through the performance of pro bono services to the indigent. One (1) hour credit shall be given for each hour worked. (p. 25)
- A. True
 - B. False
13. A patient in a health care facility who does not speak English has the unrestricted right to be provided an interpreter when receiving medical services. (p. 28)
- A. True
 - B. False
14. Which one of the following is NOT included in the Florida Patient's Bill of Rights and Responsibilities? (p. 30-31)
- A. A patient has the right to receive a complete copy of their medical record free of charge within 24 hours of their request.
 - B. A patient has the right to impartial access to medical treatment regardless of source of payment.
 - C. A patient has the right to receive, upon request, prior to treatment, a reasonable estimate of charges for medical care.
 - D. A patient is responsible for keeping appointments and, when unable to do so, for notifying the healthcare provider.
15. The primary goal of informed consent is _____. (p. 32)
- A. Provide protection for healthcare providers against litigation.
 - B. Ensure that patients have an opportunity to be informed participants in decisions about their health.
 - C. Improve efficiency and accuracy throughout the healthcare system.
 - D. Facilitate the practice of evidence-based medicine.

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