

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

**Rulemaking related to practice of occupational therapists
and occupational therapy assistants**

The Board of Physical and Occupational Therapy hereby rescinds Chapter 208, “Practice of Occupational Therapists and Occupational Therapy Assistants,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 148B and sections 147.36, 272C.3 and 272C.10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148B and 272C.

Purpose and Summary

Chapter 208 provides Iowans, licensees, and licensees’ employers with practice guidance and requirements for occupational therapists and occupational therapy assistants. The rules provide guidance on what is considered appropriate and what is not considered appropriate practice. Categories include recordkeeping, ethical practice standards, and telehealth visits. The chapter also describes allowed delegation by a supervising occupational therapist.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7551C**. Public hearings were held on February 13 and 14, 2024, at 2:30 p.m. at 6200 Park Avenue, Des Moines, Iowa, and virtually. No one attended the public hearings.

Public comment from ATA Action, the American Telemedicine Association’s affiliated trade association, requested the Board take this opportunity to expand the modalities that can be utilized for telehealth appointments before adopting these rules in the interest of expanding Iowa patients’ access to affordable, high-quality health care.

In response to the public comment, the Board expanded telehealth in subrule 208.3(2) to allow for the use of audio or video equipment, or both, at the discretion of the licensee.

Adoption of Rulemaking

This rulemaking was adopted by the Board on April 11, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on July 1, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 645—Chapter 208 and adopt the following **new** chapter in lieu thereof:

CHAPTER 208

PRACTICE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

645—208.1(148B,272C) Code of ethics for occupational therapists and occupational therapy assistants.

208.1(1) Occupational therapy. The practice of occupational therapy minimally consists of:

- a. Interpreting referrals;
- b. Evaluating patients;
- c. Identifying and documenting patient problems and goals;
- d. Establishing and documenting a plan of care;
- e. Providing treatment;
- f. Determining the appropriate portions of the treatment program to be delegated to assistive personnel;
- g. Supervising individuals as described in rule 645—208.5(272C);
- h. Providing timely patient reevaluation;
- i. Maintaining timely and adequate patient records consistent with the standards found in rule 645—208.2(147).

208.1(2) An occupational therapist or occupational therapy assistant should:

- a. Not practice outside the scope of the license;
- b. Not perform a treatment procedure that is inadvisable or contraindicated;
- c. Not continue treatment beyond the point of possible benefit to the patient or treat a patient more frequently than necessary to obtain maximum therapeutic effect;
- d. Not directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee;
- e. Not profit by means of credit or other valuable consideration as an unearned commission, discount, or gratuity in connection with the furnishing of occupational therapy services;
- f. Not obtain payment through fraudulent means. Obtaining payment through fraudulent means includes but is not limited to:
 - (1) Reporting incorrect treatment dates for the purpose of obtaining payment;
 - (2) Reporting charges for services not rendered;
 - (3) Incorrectly reporting services rendered for the purpose of obtaining payment that is greater than that to which the licensee is entitled; or
 - (4) Aiding a patient in fraudulently obtaining payment;
- g. Not exercise undue influence on patients to purchase equipment, products, or supplies from a company in which the occupational therapist owns stock or has any other direct or indirect financial interest;
- h. Not permit another person to use the therapist's license for any purpose;
- i. Not verbally or physically abuse a patient or client;
- j. Not engage in sexual misconduct. Sexual misconduct includes the following:

- (1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient or client;
- (2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient or client;
 - k. Follow the standards for supervision found in rule 645—208.4(272C);
 - l. Not perform a task or service for which the therapist lacks the skill, knowledge or competence. In such a case, the therapist should either refuse to perform the task or service and/or arrange for a professionally qualified licensed practitioner to perform the task or service;
 - m. Sign the occupational therapy treatment record to indicate that the occupational therapy services were provided in accordance with the rules and regulations for practicing as an occupational therapist or occupational therapy assistant.

645—208.2(147) Recordkeeping.

208.2(1) A licensee should maintain sufficient, timely, and accurate documentation in patient records to reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

208.2(2) A licensee should store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the licensee’s employer or agency, if applicable. If no other legal provisions govern record retention, a licensee should store patient records for a minimum of five years after the date of the patient’s discharge, or in the case of a minor, three years after the patient reaches the age of majority under state law or five years after the date of discharge, whichever is longer.

208.2(3) Electronic recordkeeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the licensee shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

208.2(4) Correction of records.

a. *Hard-copy records.* Notations should be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by the licensee.

b. *Electronic records.* If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

208.2(5) Confidentiality and transfer of records. Occupational therapists and occupational therapy assistants shall preserve the confidentiality of patient records consistent with federal and state law.

208.2(6) Retirement or discontinuance of practice. If a licensee is the owner of a practice, the licensee shall notify in writing all active patients and shall make reasonable arrangements with those patients to transfer patient records, or copies of those records, to the succeeding licensee upon knowledge and agreement of the patient.

208.2(7) Nothing stated in these rules shall prohibit a licensee from conveying or transferring the licensee’s patient records to another licensed individual who is assuming a practice, provided that written notice is furnished to all patients.

645—208.3(147) Telehealth visits. A licensee may provide occupational therapy services to a patient utilizing a telehealth visit if the occupational therapy services are provided in accordance with all requirements of this chapter.

208.3(1) “Telehealth visit” means the provision of occupational therapy services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location for the occupational therapy session.

208.3(2) A licensee engaged in a telehealth visit shall utilize technology that is secure and HIPAA-compliant, pursuant to the Health Insurance Portability and Accountability Act of 1996, PL 104–191, August 21, 1996, 110 Stat. 1936, and any amendments as of December 8, 2023, and that includes, at a minimum, audio or video equipment or both, that allows two-way real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies

to prepare for an occupational therapy session or to communicate with a patient between occupational therapy sessions.

208.3(3) A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person occupational therapy. A licensee shall not utilize a telehealth visit if the standard of care for the particular occupational therapy services cannot be met using technology.

208.3(4) Any occupational therapist or occupational therapy assistant who provides an occupational therapy telehealth visit to a patient located in Iowa shall be licensed in Iowa.

208.3(5) Prior to the first telehealth visit, a licensee shall obtain informed consent from the patient specific to the occupational therapy services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the patient of the following:

- a. The risks and limitations of the use of technology to provide occupational therapy services;
- b. The potential for unauthorized access to protected health information; and
- c. The potential for disruption of technology during a telehealth visit.

208.3(6) A licensee shall only provide occupational therapy services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

208.3(7) A licensee shall identify in the clinical record when occupational therapy services are provided utilizing a telehealth visit.

645—208.4(147) Practice of occupational therapy limited permit holders.

208.4(1) Occupational therapist limited permit holders may:

a. Evaluate clients, plan treatment programs, and provide periodic reevaluations only under supervision of a licensed OT who shall bear full responsibility for care provided under the OT's supervision; and

b. Perform the duties of the occupational therapist under the supervision of an Iowa-licensed occupational therapist, except for providing supervision to an occupational therapy assistant.

208.4(2) Occupational therapy assistants and limited permit holders shall:

a. Follow the treatment plan written by the supervising OT outlining the elements that have been delegated; and

b. Perform occupational therapy procedures delegated by the supervising OT as required in rule 645—208.5(148B).

645—208.5(148B) Supervision requirements.

208.5(1) Care rendered by unlicensed assistive personnel shall not be documented or charged as occupational therapy unless direct on-site supervision is provided by an OT or in-sight supervision is provided by an OTA.

208.5(2) Occupational therapist supervisor responsibilities. The supervisor shall:

a. Provide supervision to a licensed OTA, OT limited permit holder and OTA limited permit holder any time occupational therapy services are rendered. Supervision may be provided on site or through the use of telecommunication or other technology.

b. Ensure that every licensed OTA, OT limited permit holder and OTA limited permit holder being supervised is aware of who the supervisor is and how the supervisor can be contacted any time occupational therapy services are rendered.

c. Assume responsibility for all delegated tasks and shall not delegate a service that exceeds the expertise of the OTA or OTA limited permit holder.

d. Provide evaluation and development of a treatment plan for use by the OTA.

e. Ensure that the OTA, OT limited permit holder and OTA limited permit holder under the OT's supervision have current licenses to practice.

f. Ensure that the signature of an OTA on an occupational therapy treatment record indicates that the occupational therapy services were provided in accordance with the rules and regulations for practicing as an OTA.

208.5(3) The following are functions that only an occupational therapist may provide and that shall not be delegated to an OTA:

- a. Interpretation of referrals;
- b. Initial occupational therapy evaluation and reevaluations;
- c. Identification, determination or modification of patient problems, goals, and care plans;
- d. Final discharge evaluation and establishment of the discharge plan;
- e. Assurance of the qualifications of all assistive personnel to perform assigned tasks through written documentation of their education or training that is maintained and available at all times;
- f. Delegation of and instruction in the services to be rendered by the OTA, including but not limited to specific tasks or procedures, precautions, special problems, and contraindicated procedures; and
- g. Timely review of documentation, reexamination of the patient and revision of the plan when indicated.

208.5(4) Supervision of unlicensed assistive personnel. OTs are responsible for patient care provided by unlicensed assistive personnel under the OT's supervision. Unlicensed assistive personnel shall not provide independent patient care unless each of the following standards is satisfied:

- a. The supervising OT shall physically participate in the patient's treatment or evaluation, or both, each treatment day;
- b. The unlicensed assistive personnel shall provide independent patient care only while under the on-site supervision of the supervising OT;
- c. Documentation made in occupational therapy records by unlicensed assistive personnel shall be cosigned by the supervising OT; and
- d. The supervising OT shall provide periodic reevaluation of the performance of unlicensed assistive personnel in relation to the patient.

208.5(5) Minimum frequency of OT interaction. At a minimum, an OT must directly participate in treatment, either in person or through a telehealth visit, every twelfth visit for all patients and must document each visit. The occupational therapist shall participate at a higher frequency when the standard of care dictates.

208.5(6) Occupational therapy assistant responsibilities.

- a. The occupational therapy assistant shall:
 - (1) Provide only those services for which the OTA has the necessary skills and shall consult the supervising occupational therapist if the procedures are believed not to be in the best interest of the patient;
 - (2) Gather data relating to the patient's disability during screening, but shall not interpret the patient information as it pertains to the plan of care;
 - (3) Communicate any change, or lack of change, that occurs in the patient's condition and that may need the assessment of the OT;
 - (4) Provide occupational therapy services only under the supervision of the occupational therapist;
 - (5) Provide treatment only after evaluation and development of a treatment plan by the occupational therapist;
 - (6) Refer inquiries that require interpretation of patient information to the occupational therapist;
 - (7) Be supervised by an occupational therapist, either on site or through the use of telecommunication or other technology, at all times when occupational therapy services are being rendered;
 - (8) Receive supervision from any number of at least one occupational therapist; and
 - (9) Record on every patient chart the name of the OTA's supervisor for each treatment session.

b. The signature of an OTA on the occupational therapy treatment record indicates that occupational therapy services were provided in accordance with the rules and regulations for practicing as an OTA.

208.5(7) Unlicensed assistive personnel. Unlicensed assistive personnel may assist an OTA in providing patient care in the absence of an OT only if the OTA maintains in-sight supervision of the unlicensed assistive personnel and the OTA is primarily and significantly involved in that patient's care.

208.5(8) The occupational therapy limited permit holder may evaluate clients, plan treatment programs, and provide periodic reevaluations under supervision of a licensed occupational therapist who shall bear full responsibility for care provided under the occupational therapist's supervision. These rules are intended to implement Iowa Code chapters 147, 148B and 272C.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/15/24.