

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rulemaking related to discipline for occupational therapists and occupational therapy assistants and providing an opportunity for public comment

The Board of Physical and Occupational Therapy hereby proposes to rescind Chapter 209, “Discipline for Occupational Therapists and Occupational Therapy Assistants,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed 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

Proposed Chapter 209 defines actions that are inconsistent with professional standards for licensees, which are established to protect the consumer and colleagues. Actions inconsistent with professional standards could result in disciplinary actions against a practitioner’s license.

The 19 boards in the legacy Department of Health and Human Services (HHS) Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to occupational therapist and occupational therapy assistant licensees and are therefore excluded from the general disciplinary chapter.

No public comments were received during the November 21, 2023, public hearing for the Regulatory Analysis for this chapter.

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.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Venus Vendoures Walsh
Division of Licensing
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321-1270
Phone: 515.242.6529
Email: venus.vendoures-walsh@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 2:30 to 2:50 p.m.	6200 Park Avenue Des Moines, Iowa Video call link: meet.google.com/jji-jaoj-uqy Phone numbers: tel.meet/yxd-hmkw-ppo?pin=1779851586643
February 14, 2024 2:30 to 2:50 p.m.	6200 Park Avenue Des Moines, Iowa Video call link: meet.google.com/jji-jaoj-uqy Phone numbers: tel.meet/yxd-hmkw-ppo?pin=1779851586643

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 209 and adopt the following **new** chapter in lieu thereof:

CHAPTER 209
DISCIPLINE FOR OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS

645—209.1(148B) Definitions.

“*Board*” means the board of physical and occupational therapy.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice in Iowa pursuant to Iowa Code chapter 148A and 645—Chapters 206 to 209.

645—209.2(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in 645—Chapter 13 when the board determines that any of the acts or offenses listed in that chapter or in Iowa Code section 147.55 have occurred:

209.2(1) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other occupational therapists or occupational therapy assistants in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care that is ordinarily exercised by the average occupational therapist or occupational therapy assistant acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of the licensed occupational therapist or licensed occupational therapy assistant in this state.

e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

209.2(2) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of occupational therapy or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

209.2(3) Violation of a regulation, rule or law of this state, another state, or the United States that relates to the practice of occupational therapy, including, but not limited to, the code of ethics found in rule 645—208.1(148B,272C).

209.2(4) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of occupational therapy in another state, district, territory or country.

209.2(5) Knowingly aiding, assisting or advising a person to unlawfully practice occupational therapy.

209.2(6) Failure to report a change of name or address within 30 days after it occurs.

209.2(7) Representing oneself as a licensed occupational therapist or occupational therapy assistant when one's license has been suspended or revoked, or when the license is on inactive status.

209.2(8) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

These rules are intended to implement Iowa Code chapters 147, 148B and 272C.