



## Ohio Revised Code

### Section 4755.11 Disciplinary actions.

Effective: October 9, 2021

Legislation: House Bill 110

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- (A) In accordance with Chapter 119. of the Revised Code, the occupational therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board may suspend, revoke, or, except as provided in division (B) of this section, refuse to issue or renew an occupational therapist license or occupational therapy assistant license, or may reprimand, fine, place a license holder on probation, or require the license holder to take corrective action courses, for any of the following:
- (1) Conviction of an offense involving moral turpitude or a felony, regardless of the state or country in which the conviction occurred;
  - (2) Violation of any provision of sections 4755.04 to 4755.13 of the Revised Code;
  - (3) Violation of any lawful order or rule of the occupational therapy section;
  - (4) Obtaining or attempting to obtain a license issued by the occupational therapy section by fraud or deception, including the making of a false, fraudulent, deceptive, or misleading statement in relation to these activities;
  - (5) Negligence, unprofessional conduct, or gross misconduct in the practice of the profession of occupational therapy;
  - (6) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals;
  - (7) Communicating, without authorization, information received in professional confidence;
  - (8) Using controlled substances, habit forming drugs, or alcohol to an extent that it impairs the ability to perform the work of an occupational therapist or occupational therapy assistant;



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- (9) Practicing in an area of occupational therapy for which the individual is untrained or incompetent;
- (10) Failing the licensing or Ohio jurisprudence examination;
- (11) Aiding, abetting, directing, or supervising the unlicensed practice of occupational therapy;
- (12) Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including occupational therapy, for any reason other than a failure to renew, in Ohio or another state or jurisdiction;
- (13) Except as provided in division (C) of this section:
  - (a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers occupational therapy, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;
  - (b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers occupational therapy, would otherwise be required to pay.
- (14) Working or representing oneself as an occupational therapist or occupational therapy assistant without a current and valid license issued by the occupational therapy section;
- (15) Engaging in a deceptive trade practice, as defined in section 4165.02 of the Revised Code;
- (16) Violation of the standards of ethical conduct in the practice of occupational therapy as identified by the occupational therapy section;
- (17) A departure from, or the failure to conform to, minimal standards of care required of licensees, whether or not actual injury to a patient is established;



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- (18) An adjudication by a court that the applicant or licensee is incompetent for the purpose of holding a license and has not thereafter been restored to legal capacity for that purpose;
- (19)(a) Except as provided in division (A)(19)(b) of this section, failure to cooperate with an investigation conducted by the occupational therapy section, including failure to comply with a subpoena or orders issued by the section or failure to answer truthfully a question presented by the section at a deposition or in written interrogatories.
  - (b) Failure to cooperate with an investigation does not constitute grounds for discipline under this section if a court of competent jurisdiction issues an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence at issue.
- (20) Conviction of a misdemeanor reasonably related to the practice of occupational therapy, regardless of the state or country in which the conviction occurred;
- (21) Inability to practice according to acceptable and prevailing standards of care because of mental or physical illness, including physical deterioration that adversely affects cognitive, motor, or perception skills;
- (22) Violation of conditions, limitations, or agreements placed by the occupational therapy section on a license to practice;
- (23) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients in relation to the practice of occupational therapy;
- (24) Failure to complete continuing education requirements as prescribed in rules adopted by the occupational therapy section under section 4755.06 of the Revised Code;
- (25) Regardless of whether it is consensual, engaging in any of the following with a patient other than the spouse of the occupational therapist or occupational therapy assistant:
  - (a) Sexual conduct, as defined in section 2907.01 of the Revised Code;



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- (b) Sexual contact, as defined in section 2907.01 of the Revised Code;
- (c) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning.
- (B) The occupational therapy section shall not refuse to issue a license to an applicant because of a criminal conviction unless the refusal is in accordance with section 9.79 of the Revised Code.
- (C) Sanctions shall not be imposed under division (A)(13) of this section against any individual who waives deductibles and copayments as follows:
- (1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the section upon request.
- (2) For professional services rendered to any other person licensed pursuant to sections 4755.04 to 4755.13 of the Revised Code to the extent allowed by those sections and the rules of the occupational therapy section.
- (D) Except as provided in division (E) of this section, the suspension or revocation of a license under this section is not effective until either the order for suspension or revocation has been affirmed following an adjudication hearing, or the time for requesting a hearing has elapsed.

When a license is revoked under this section, application for reinstatement may not be made sooner than one year after the date of revocation. The occupational therapy section may accept or refuse an application for reinstatement and may require that the applicant pass an examination as a condition of reinstatement.

When a license holder is placed on probation under this section, the occupational therapy section's probation order shall be accompanied by a statement of the conditions under which the individual may be removed from probation and restored to unrestricted practice.



(E) On receipt of a complaint that a person who holds a license issued by the occupational therapy section has committed any of the prohibited actions listed in division (A) of this section, the section may immediately suspend the license prior to holding a hearing in accordance with Chapter 119. of the Revised Code if it determines, based on the complaint, that the licensee poses an immediate threat to the public. The section may review the allegations and vote on the suspension by telephone conference call. If the section votes to suspend a license under this division, the section shall issue a written order of summary suspension to the licensee in accordance with section 119.07 of the Revised Code. If the individual whose license is suspended fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the section shall enter a final order permanently revoking the individual's license. Notwithstanding section 119.12 of the Revised Code, a court of common pleas shall not grant a suspension of the section's order of summary suspension pending the determination of an appeal filed under that section. Any order of summary suspension issued under this division shall remain in effect, unless reversed on appeal, until a final adjudication order issued by the section pursuant to division (A) of this section becomes effective. The section shall issue its final adjudication order regarding an order of summary suspension issued under this division not later than ninety days after completion of its hearing. Failure to issue the order within ninety days shall result in immediate dissolution of the suspension order, but shall not invalidate any subsequent, final adjudication order.

(F) If any person other than a person who holds a license issued under section 4755.08 of the Revised Code has engaged in any practice that is prohibited under sections 4755.04 to 4755.13 of the Revised Code or the rules of the occupational therapy section, the section may apply to the court of common pleas of the county in which the violation occurred, for an injunction or other appropriate order restraining this conduct, and the court shall issue this order.