



STATE OF WISCONSIN

Department of Safety and Professional Services
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Governor Scott Walker Secretary Dave Ross

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**OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD MEETING
VIA VIRTUAL MEETING
Room 121A, 1400 E. Washington Avenue, Madison
DSPS Contact: Tom Ryan (608) 261-2378
OCTOBER 30, 2012**

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting items may be removed from the agenda. Please consult the meeting minutes for a summary of the actions and deliberations of the Board.

9:00 A.M.

OPEN SESSION

- 1. Call to Order – Roll Call**
- 2. Declaration of Quorum**
- 3. Adoption of the Agenda (1-4)**
- 4. Approval of Minutes of April 11, 2012 (insert) (5-8)**
- 5. Introduction of New Board Member(s)**
- 6. Recognition of Board Member(s)**
- 7. Secretary Matters**
- 8. Executive Director Matters**
 - a. Staff Changes
 - b. 2013 Meeting Dates (insert) (9-10)
 - c. DSPS Website Update
 - d. Other
- 9. Items Received After Mailing of Agenda**
 - a. Presentation of Proposed Stipulations and Final Decisions and Orders
 - b. Presentation of Proposed Decisions
 - c. Petitions for Re-hearing
 - d. Petitions for Summary Suspension
 - e. Petitions for Extension of Time in Cases
 - f. Petitions to Vacate Orders
 - g. Requests for Disciplinary Proceeding Presentations
 - h. Motions
 - i. Appearances from Requests Received or Renewed
 - j. Speaking Engagement, Travel and Public Relation Requests
 - k. Application Issues
 - l. Examination Issues
 - m. Continuing Education Issues
 - n. Practice Questions

10. Items for Board Discussion

- a. Discussion of Division of Legal Services and Compliance (formerly DOE) Policy Regarding Screening – **APPEARANCE 9:05 A.M. – Jeanette Lytle, Division of Legal Services and Compliance** (insert) (11-14)
- b. Review OT 1 – OT 5 Relating to Modernizing Current Administrative Rules (insert) (15-34)

11. Informational Item(s)

12. Public Comment(s)

13. New/Other Business

CLOSED SESSION

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (Wis. Stat. § 19.85 (1) (a)); consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § 19.85 (1) (b), and Wis. Stat. § 440.205); consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g))

14. Conducting Oral Examination(s) for 1 candidate(s). 10:30 A.M.

15. Deliberation of Proposed Stipulation(s), Final Decision(s) and Order(s)

- a. Lisa A. Halvorsen, OT – 11 OTB 004 and 12 OTB 004 (insert) (35-42)

16. Case Closings (insert) (43-44)

Deliberation of Items Received in the Bureau after Preparation of Agenda

- a. Proposed Stipulations
- b. Proposed Decisions and Orders
- c. Objections and Responses to Objections
- d. Complaints
- e. Petitions for Summary Suspension
- f. Remedial Education Cases
- g. Petitions for Extension of Time
- h. Petitions to Vacate Orders
- i. Motions
- j. Administrative Warnings
- k. Matters Relating to Costs
- l. Appearances from Requests Received or Renewed
- m. Examination Issues
- n. Application Issues
- o. Monitoring Cases
- p. Impaired Professional Procedure Cases

17. Monitoring

Consulting with Legal Counsel

Division of Legal Services and Compliance – Case Status Reports and Case Closings

Ratifying Licenses and Certificates

RECONVENE INTO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

Voting on Items Considered or Deliberated on in Closed Session if Voting is Appropriate

New/Other Business

ADJOURNMENT

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**OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD
MINUTES
APRIL 11, 2012**

PRESENT: Mylinda Barisas-Matula, David Cooper (Live Meeting), Brian Holmquist, Deborah McKernan-Ace, Dorothy Olson (Live Meeting), Corliss Rice (Live Meeting)

EXCUSED: Gail Slaughter

STAFF: Tom Ryan, Executive Director; Sandy Nowack, Legal Counsel; Karen Rude-Evans, Bureau Assistant; Shawn Leatherwood, Paralegal

GUESTS: Teri Black, WOTA

CALL TO ORDER

Brian Holmquist, Chair, called the meeting to order at 9:07 a.m. A quorum of 6 (six) members was confirmed.

ADOPTION OF AGENDA

Amendments:

- Item 7b – Delegation Motion – is deleted from the agenda
- Item 12a – Review of the Board’s Practice Act and Rules - insert documents after page 42
- Case Status Report (closed session) – insert at the end of the agenda

MOTION: Mylinda Barisas-Matula moved, seconded by Brian Holmquist, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF NOVEMBER 1, 2011

MOTION: Mylinda Barisas-Matula moved, seconded by Brian Holmquist, to approve the minutes of November 1, 2011 as written. Motion carried unanimously.

SECRETARY MATTERS

There were no issues to discuss.

EXECUTIVE DIRECTOR MATTERS

Board Member Guidebook

Tom Ryan reviewed the Board Member Guidebook with the Board. Members were asked to complete and return the signature page.

ITEMS FOR BOARD DISCUSSION

Review of the Board's Practice Act and Rules

The Board discussed updating their Practice Act and rules. Paralegal Shawn Leatherwood reviewed the rules process with the Board.

MOTION: Mylinda Barisas-Matula moved, seconded by Dorothy Olson, to delegate Mylinda Barisas-Matula and Deborah McKernan-Ace, to continue to work with Department staff to draft a scope statement and to authorize Brian Holmquist to have final approval to file the scope statement. Motion carried unanimously.

INFORMATIONAL ITEMS

No items to review.

PUBLIC COMMENTS

Teri Black, WOTA, stated she receives phone calls from applicants who are required to take an oral examination. WOTA would like to develop an online refresher course for these individuals to assist them in preparing for the oral examination.

OTHER BUSINESS

The Board members asked for more advanced notice when there are oral examinations.

CLOSED SESSION

MOTION: Deborah McKernan-Ace moved, seconded by Corliss Rice, to convene to closed session to deliberate on cases following hearing (Wis. Stat. 19.85 (1) (a)); consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. 19.85 (1) (b), and Wis. Stat. 440.205); consider individual histories or disciplinary data (Wis. Stat. 19.85 (1) (f)) and to confer with legal counsel (Wis. Stat. 19.85 (1) (g)). Roll Call Vote:

My linda Barisas-Matula-yes; David Cooper-yes; Brian Holmquist-yes;
Deborah McKernan-Ace-yes; Dorothy Olson-yes; Corliss Rice-yes.
Motion carried unanimously.

The Board convened into closed session at 10:12 a.m.

RECONVENE TO OPEN SESSSION

MOTION: Brian Holmquist moved, seconded by My linda Barisas-Matula, to reconvene to open session. Motion carried unanimously.

Open session reconvened at 12:15 p.m.

VOTING ON ITEMS CONSIDERED IN CLOSED SESSION IF VOTING IS APPROPRIATE

VERIFICATION OF EXAMINATION SCORES

MOTION: Deborah McKernan-Ace moved, seconded by My linda Barisas-Matula, to verify the oral examination scores. Motion carried unanimously.

MONITORING

There were no monitoring cases.

CASE CLOSINGS

MOTION: My linda Barisas-Matula moved, seconded by Brian Holmquist, to close case **11 OTB 010 for compliance gained (P2)**. Motion carried unanimously.

MOTION: My linda Barisas-Matula moved, seconded by Brian Holmquist, to close case **12 OTB 001 for no violation**. Motion carried unanimously.

OTHER BUSINESS

There was no additional business.

ADJOURNMENT

MOTION: Mylinda Barisas-Matula moved, seconded by Brian Holmquist to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:16 p.m.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Kimberly Wood, Program Assistant Supervisor		2) Date When Request Submitted: 10/15/2012 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Occupational Therapy Affiliated Credentialing Board			
4) Meeting Date: 10/30/2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 2013 Meeting Dates	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: <p>The Board should review and note its meeting dates scheduled for 2013. Please advise your Executive Director of any existing conflicts.</p>			
11) Authorization <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"><i>Kimberly Wood</i></div> <div style="width: 35%; text-align: right;"><i>10/15/2012</i></div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Signature of person making this request</div> <div style="width: 35%; text-align: right;">Date</div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Supervisor (if required)</div> <div style="width: 35%; text-align: right;">Date</div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Executive Director signature (indicates approval to add post agenda deadline item to agenda)</div> <div style="width: 35%; text-align: right;">Date</div> </div>			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Executive Assistant prior to the start of a meeting.			



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MEMO

TO: Occupational Therapists Affiliated Credentialing Board
FROM: Kimberly Wood, Program Assistant Supervisor
DATE: October 15, 2012
RE: 2013 Meeting & Screening Dates

Board meeting and screening panel sessions have been scheduled as follows. If a Board meeting is not held and there are cases to be screened, the Division of Legal Services and Compliance will conduct the screening panel session via telephone.

April 10	Meeting/Screening after mtg.	9:00 a.m.	Room 121C
October 29	Meeting/Screening after mtg.	9:00 a.m.	Room 121A

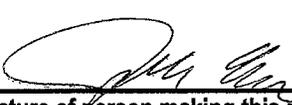
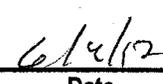
2013 Screening Panel teleconferences:

Not yet determined.

For any complaint intake or screening panel matters, please contact Patara Horn at 608-261-0134 or at patara.horn@wisconsin.gov.

**State of Wisconsin
Department of Regulation and Licensing**

AGENDA REQUEST FORM

Name and Title of Person Submitting the Request: Jeanette Lytle		Date When Request Submitted: June 1, 2012
Items will be considered late if submitted after 5 p.m. and less than:		
<ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before meeting for all other boards 		
Name of Board, Committee, Council: Occupational Therapists Affiliated Credentialing Board		
Board Meeting Date: October 30, 2012	Attachments: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No	How should the item be titled on the agenda page? Discussion of DOE policy regarding screening.
Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	Is an appearance before the Board being scheduled? If yes, by whom? <input checked="" type="checkbox"/> Yes by Jeanette Lytle <input type="checkbox"/> No	Name of Case Advisor(s), if required:
Describe the issue and action the Board should address: DOE will discuss screening policy and answer any questions the board may have regarding screening protocols.		
If this is a "Late Add" provide a justification utilizing the Agenda Request Policy:		
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Documents submitted to the agenda must be single-sided. 3. Only copies of the original document will be accepted. 4. Provide original documents needing Board Chairperson signature to the Bureau Director or Program Assistant prior to the start of a meeting.		
Authorization:		
 Signature of person making this request		 Date
Supervisor signature (if required)		Date
Bureau Director signature (indicates approval to add late items to agenda)		Date

STATE OF WISCONSIN
DEPARTMENT OF SAFETY and PROFESSIONAL SERVICES
DIVISION OF ENFORCEMENT

POLICY/PROCEDURE

Subject: **Administrative Complaint Closures by Division of Enforcement Prior to
Submission to Screening Panel**
Section: **15.0 (Version 3)** Effective Date: **May 4, 2012**

Authorized by the Division Administrator:
Chad Koplien

Intent of Policy: The intent of this policy/procedure is to identify complaints that can be closed by Division of Enforcement staff and attorney supervisors to eliminate the opening of unnecessary complaints, complaints without legal basis or where the complaint can be, or has been addressed by another court, agency, or organization with more direct financial resources, common authority, or jurisdiction.

Procedure: Intake staff shall seek the input of the applicable business/health team attorney supervisor regarding any case of the types listed below. The attorney supervisor will make the decision on whether any of these types of complaints shall be administratively closed on the basis of legal discretion at the intake stage prior to referral to the screening panel. In the event intake staff allows a case which falls into one of the categories below to be referred to screening without consideration for closure, prior to the screening panel date, the prosecuting attorney shall discuss the case with his or her attorney supervisor, and the supervisor shall determine whether the case should be administratively closed and withdrawn from panel consideration.

The following types of complaints shall be vigorously identified by Division staff for potential closure after legal review:

1. Anonymous complaints that are not serious as determined by an objective legal analysis; or lack sufficient evidence to support the allegations (e.g., no information on who, what, where, or when); or present no actual violation; or do not present a clear danger to the public;
2. Complaints of Healthcare fraud, including but not limited to Medicaid and Medicare fraud. These complaints shall be referred to agencies dedicated to investigating these issues (e.g., Department of Justice, Department of Health Services, or Private Insurer Internal Fraud Department), with a request that the agency or private insurer notify DOE of any adjudication of fraud. The Division shall prosecute a fraud complaint, only upon obtaining a certified copy of a judgment of conviction of fraud; an administrative adjudication finding fraud, or civil judgment adjudicating a finding of fraud;
3. Complaints where the incident alleged is older than two years unless the complaint alleges serious physical or financial harm or there is a substantial legal or public interest justification for opening an investigation as determined by an objective legal analysis;

4. Barber or Cosmetology complaints where the incident is older than one year and there is no evidence of bodily harm or serious financial harm as determined by an objective legal analysis;
5. Complaints or notifications of any criminal or municipal arrests, charges or convictions, including operation of a motor vehicle while intoxicated unless the complaint contains evidence of a clear and substantial relationship between the allegations and the practice of the profession;
6. Commission, salary and earnest money disputes or contract disputes between employee and employer;
7. Rudeness on the part of the licensee, with the exception of complaints against funeral directors;
8. Billing disputes or money issues unless there is an adjudication of fraud. The Division shall prosecute a fraud complaint, only upon obtaining a certified copy of a judgment of conviction; an administrative adjudication finding fraud, or civil judgment adjudicating a finding of fraud;
9. Advertising complaints in particular complaints by competitors, where there is no serious harm unless there is an advertized misrepresentation of a credential or specialty or there is other substantial legal or public interest justification for opening an investigation as determined by an objective legal analysis.;
10. Disputes between professionals unless there is evidence of harm to a third party consumer and there is no substantial legal or public interest justification for opening an investigation as determined by an objective legal analysis.;
11. Any complaint where there is adequate alternative redress through other regulatory agencies, authorities, or the courts, unless a certified copy of a judgment of conviction, administrative adjudication or civil judgment all which fully evidence the facts necessary to establish a professional regulatory violation; and
12. Any complaint where there is no allegation of actual physical or financial harm or other substantial legal or public interest justification for opening an investigation as determined by an objective legal analysis.

Any complaint closed administratively, prior to submission to the screening panel, shall contain a statement drafted by the attorney supervisor, stating the basis for the closure. Also, the attorney supervisor should note if the complaint is appropriate for a "letter of education". In such case, the attorney supervisor shall assist intake staff in preparing an appropriate letter of instruction notifying the credential holder of the rule and/or violation at issue, and suggesting professional education to redress the allegation or deficiency. The intake supervisor working with the attorney supervisors shall monitor the number of cases closed under this policy and report these closures quarterly at Division of Enforcement management meetings.

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STATEMENT OF SCOPE

Department of Safety and Professional Services

Rule No.: 165- OT 1 – OT 5

Relating to: Modernization of occupational therapy regulations

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

Modernize the rules governing licensed occupational therapists and occupational therapist assistants to reflect current practice in the profession.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The Occupational Therapists Affiliated Credentialing Board (Board) has undertaken a review of its current rules as a response to changes within their profession. The majority of the current rules have been in place since January 2003. A great deal has changed within the profession since the initial promulgation of the rules. Specifically, as of April 14, 2011 the American Occupational Therapy Association (AOTA) redefined the definition of Occupational Therapy Practice. The profession has expanded and grown past much of the current language in the rules. Definitions such as evaluation, occupational performance areas, occupational performance components, occupational performance contexts, prevention and screening need updating to reflect profession specific terminology that's in step with the today's practice of occupational therapy. Also, the Biennial Registration date should be corrected to reflect the accurate date. These are a few examples of how outdated the current rules are.

The Board's review will be comprehensive identifying specific sections of Chapter OT 1- OT 5 for revision. However, although the Board's review of terminology, practice standards, and licensing requirements will be comprehensive, it will not result in a major policy change. With these revisions, the Board seeks to clarify the existing rules. In the alternative, if new rules are not promulgated the current rules will continue to lag behind standards and terminology presently used in the profession.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The legislature has granted general statutory authority to affiliated credentialing boards for rule writing in the following sections ss. 15.085 (b), 227.11 (2) (a), and 403.035 (1), Stats. The legislature has granted specific rule writing authority to the Occupational Therapists Affiliated Credentialing Board via s. 448.965 (1), and (2), Stats. The Board may write rules that set forth standards for passing examination for occupational therapists and occupational therapy Assistants, continuing education requirements, standards for unprofessional conduct, and rules that define the scope of practice for the profession.

- (1) The affiliated credentialing board shall promulgate rules that establish each of the following:
 - (a) Standards for acceptable examination performance by an applicant for licensure as an occupational therapist or occupational therapy assistant.

Chapter OT 1

DEFINITIONS

OT 1.01 Authority and purpose.

OT 1.02 Definitions.

OT 1.01

OT 1.01 Authority and purpose. The rules in this chapter are adopted by the occupational therapists affiliated credentialing board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to govern the licensure and regulation of occupational therapists and occupational therapy assistants.

OT 1.01 History

History: CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03.

OT 1.02

OT 1.02 Definitions. As used in chs. OT 1 to 5:

OT 1.02(1)

(1) "Assessment" is a component part of the evaluation process, and means the process of determining the need for, nature of, and estimated time of treatment at different intervals during the treatment, determining needed coordination with or referrals to other disciplines, and documenting these activities.

OT 1.02(2)

(2) "Board" means the occupational therapists affiliated credentialing board.

OT 1.02(3)

(3) "Consultation" means a work-centered, problem-solving helping relationship in which knowledge, experience, abilities and skills are shared with client, family, caregivers, and other professionals, including physicians, in the process of helping to habilitate or rehabilitate through the use of occupational therapy.

OT 1.02(4)

(4) "Entry-level" means the person has no demonstrated experience in a specific position, such as a new graduate, a person new to the position, or a person in a new setting with no previous experience in that area of practice.

OT 1.02(5)

(5) "Evaluation" means the process of obtaining and interpreting data necessary for understanding the individual system or situation. This includes planning for and documenting the evaluation process, results and recommendations, including the need for intervention and potential change in the intervention plan.

OT 1.02(6)

(6) "Experienced" means demonstrated competence in the performance of duties in a given area of practice.

OT 1.02(7)

(7) "Habilitation" means an occupational therapy intervention designed for the education, training or support services provided to individuals to assist them in acquiring skills not yet gained or learned, thus enabling them to learn, practice and refine skills

- needed for independent living, productive employment activity and community participation.
- OT 1.02(8) **(8)** "Level I fieldwork" means an integral part of didactic courses and includes varied learning experiences. Students are supervised in observation and assistance with clients during short term contacts.
- OT 1.02(9) **(9)** "Level II fieldwork" means extended fieldwork which emphasizes the application and integration of academically acquired knowledge and skills in the supervised delivery of occupational therapy services to clients.
- OT 1.02(10) **(10)** "Occupational performance areas" means the functional abilities that occupational therapy addresses in the areas of activities of daily living, including continence training; self maintenance; functional communication and functional mobility; work and productive activities, including home management; care giving; learning and vocational pursuits; and play or leisure activities, including solitary and social activities and recreation.
- OT 1.02(11) **(11)** "Occupational performance components" means the skills and abilities that an individual uses to engage in performance areas, including sensorimotor, sensory, neuromuscular and motor factors; cognitive integration and cognitive components; and psychological, social and self-management areas.
- OT 1.02(12) **(12)** "Occupational performance contexts" means situations or factors that influence an individual's engagement in desired or required occupational performance areas, including age, maturation, life cycle stage of disability, physical environment, social supports and expectations, and behavioral norms and opportunities.
- OT 1.02(13) **(13)** "Occupational therapist educational program" means an educational program and supervised internships in occupational therapy recognized by the board and accredited by the accreditation council for occupational therapy education of the American occupational therapy association or a program approved by the world federation of occupational therapy.
- OT 1.02(14) **(14)** "Occupational therapy assistant educational program" means an educational program and supervised internships in occupational therapy recognized by the board and accredited by the accreditation council for occupational therapy education of the American occupational therapy association or a program approved by the world federation of occupational therapy.
- OT 1.02(15) **(15)** "Prevention" means the fostering of normal development, sustaining and protecting existing functions and abilities, preventing disability or supporting levels of restoration or change to enable individuals to maintain maximum independence.
- OT 1.02(16) **(16)** "Referral and physician order" means the practice of requesting and, where applicable, ordering occupational therapy services and delegating the responsibility for evaluation and treatment to an occupational therapist.
- OT 1.02(17) **(17)** "Rehabilitation" means the process of treatment and education to restore a person's ability to live and work as normally as possible after a disabling injury or illness.
- OT 1.02(18) **(18)** "Screening" means the review of occupational performance components in natural environments, educational or clinical settings to determine the significance of discrepancy between

current performance and expected level of performance, which may be done in consultation with a physician.

OT 1.02(19)

(19) "Service competence" means the determination made by various methods that 2 people performing the same or equivalent procedures will obtain the same or equivalent results.

OT 1.02(20)

(20) "Supervision" is a cooperative process in which 2 or more people participate in a joint effort to establish, maintain and elevate a level of competence and performance. One of the participants, the supervisor, possesses skill, competence, experience, education, credentials, or authority in excess of those possessed by the other participant, the supervisee.

OT 1.02 History

History: CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03.

The Wisconsin Administrative Code on this web site is current through the last published Wisconsin Register. See also Are the Codes on this Website Official?

- OT 2.03**
- OT 2.03(1)** **OT 2.03 Examinations, panel review of applications.**
- (1) Applicants for licensure as an occupational therapist or occupational therapy assistant shall pass the certification examination for occupational therapist or the certification examination for occupational therapy assistant of the national board for certification in occupational therapy, and shall complete an open book examination on statutes and rules governing the practice of occupational therapy in Wisconsin.
- OT 2.03(2)** (2) An applicant may be required to complete an oral examination if the applicant meets any of the following criteria:
- OT 2.03(2)(a)** (a) Has a medical condition which in any way impairs or limits the applicant's ability to practice occupational therapy with reasonable skill and safety.
- OT 2.03(2)(b)** (b) Uses chemical substances so as to impair in any way the applicant's ability to practice occupational therapy with reasonable skill and safety.
- OT 2.03(2)(c)** (c) Has been disciplined or had licensure denied by a licensing or regulatory authority in Wisconsin or another jurisdiction.
- OT 2.03(2)(d)** (d) Has been convicted of a crime the circumstances of which substantially relate to the practice of occupational therapy.
- OT 2.03(2)(e)** (e) Has not practiced occupational therapy for a period of 3 years prior to application, unless the applicant has graduated from a school of occupational therapy within that period. Practice for the purposes of this paragraph includes direct client treatment and education, occupational therapy instruction in an occupational therapy academic program recognized by the board, occupational therapy research, and service in administrative positions for health care providers or governmental bodies with responsibility relating to occupational therapy.
- OT 2.03(2)(f)** (f) Has been found negligent in the practice of occupational therapy or has been a party in a lawsuit in which it was alleged that the applicant has been negligent in the practice of occupational therapy.
- OT 2.03(2)(g)** (g) Has been diagnosed as suffering from pedophilia, exhibitionism or voyeurism.
- OT 2.03(2)(h)** (h) Has within the past 2 years engaged in the illegal use of controlled substances.
- OT 2.03(2)(i)** (i) Has been subject to adverse formal action during the course of occupational therapy education, postgraduate training, hospital practice, or other occupational therapy employment.
- OT 2.03(2)(j)** (j) Has been graduated from an occupational therapy school not approved by the board.
- OT 2.03(3)** (3) An application filed under s. OT 2.01 shall be reviewed by an application review panel of at least 2 board members designated by the chairperson of the board. The panel shall determine whether the applicant is eligible for a license without completing an oral examination.
- OT 2.03(4)** (4) All written or oral examinations shall be conducted in the English language.

OT 2.03(5) (5) If both written and oral examinations are required they shall be scored separately and the applicant shall achieve a passing grade on all examinations to qualify for a license.

OT 2.03(6) (6) The board shall notify each applicant eligible for examination of the time and place scheduled for that applicant's examinations. Failure of an applicant to appear for examinations as scheduled will void that applicant's application and require the applicant to reapply for licensure, unless prior scheduling arrangements have been made with the board by the applicant.

OT 2.03(7) (7) If after receipt of additional information from applicants who have been treated for alcohol or drug abuse or impairment or from applicants who have been treated for an acute or chronic psychological impairment the board decides that an oral examination shall be administered, the examination shall be limited to a determination whether at the time of application the applicant's disability appears to pose an actual risk to the health, safety or welfare of client or public arising from the applicant's demonstrated inability to safely carry out necessary duties and responsibilities inherent to the practice of occupational therapy.

OT 2.03 History

History: CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03.

OT 2.04 **OT 2.04 Exemption from written examination for certain occupational therapy assistant applicants.** An applicant for licensure as an occupational therapy assistant who graduated from an occupational therapy assistant educational program prior to 1977 is exempt from the requirements for a written licensure examination for occupational therapy assistant.

OT 2.04 History

History: CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03.

OT 2.05 **OT 2.05 Examination review by applicant.**

OT 2.05(1) (1) An applicant who fails the oral or statutes and rules examination may request a review of that examination by filing a written request and the fee required under s. 440.07 (3), Stats., with the board within 30 days of the date on which examination results are mailed.

OT 2.05(2) (2) Examination reviews are by appointment only.

OT 2.05(3) (3) An applicant may review the statutes and rules examination for not more than one hour.

OT 2.05(4) (4) An applicant may review a tape of the oral examination for not more than 2 hours.

OT 2.05(5) (5) The applicant may not be accompanied during the review by any person other than the proctor.

OT 2.05(6) (6) At the beginning of the review, the applicant shall be provided with a copy of the questions, a copy of the applicant's answer sheet or oral tape and a copy of the master answer sheet.

OT 2.05(7) (7) The applicant may review the examination in the presence of a proctor. The applicant shall be provided with a form on which to write comments, questions or claims of error regarding any items in the examination. Bound reference books shall be permitted. Applicants shall not remove any notes from the area. Notes shall be retained by the proctor and made available to the applicant for use at a hearing, if desired. The proctor shall not defend the

examination nor attempt to refute claims of error during the review.

OT 2.05(8)

(8) An applicant may not review the examination more than once.

OT 2.05 History

History: CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03.

OT 2.06

OT 2.06 Board review of examination error claim.

OT 2.06(1)

(1) An applicant claiming examination error shall file a written request for board review in the board office within 30 days of the date the examination was reviewed by the applicant. The request shall include all of the following:

OT 2.06(1)(a)

(a) The applicant's name and address.

OT 2.06(1)(b)

(b) The type of license for which the applicant applied.

OT 2.06(1)(c)

(c) A description of the mistakes the applicant believes were made in the examination content, procedures, or scoring, including the specific questions or procedures claimed to be in error.

OT 2.06(1)(d)

(d) The facts which the applicant intends to prove, including reference text citations or other supporting evidence for the applicant's claim.

OT 2.06(2)

(2) The board shall review the claim, make a determination of the validity of the objections and notify the applicant in writing of the board's decision and any resulting grade changes.

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A licensee who allows the license to lapse may apply to the board for reinstatement of the license as follows:

- OT 3.05(1) (1) If the licensee applies for renewal of the license less than 5 years after its expiration, the license shall be renewed upon payment of the renewal fee and fulfillment of the continuing education requirements.
- OT 3.05(2) (2) If the licensee applies for renewal of the license more than 5 years after its expiration, the board shall make such inquiry as it finds necessary to determine whether the applicant is competent to practice under the license in this state, and shall impose any reasonable conditions on reinstatement of the license, including oral examination, as the board deems appropriate. All applicants under this section shall be required to pass the open book examination on statutes and rules, which is the same examination given to initial applicants.

OT 3.05 History

History: CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03.

OT 3.06 **OT 3.06 Continuing education.** The purpose and intent of continuing education in occupational therapy is to assure the public of the expectation and obligation that practitioners maintain currency, knowledge levels and professional competence. Occupational therapists and occupational therapy assistants shall complete continuing education as follows:

- OT 3.06(1) (1) Each holder of a license as an occupational therapist shall, at the time of applying for renewal of a license of registration under s. 448.07, Stats., certify that he or she has, in the 2 years preceding the renewal application, completed at least 24 points of acceptable continuing education.
- OT 3.06(2) (2) Each holder of a license as an occupational therapy assistant shall, at the time of applying for renewal of a license of registration under s. 448.967, Stats., certify that he or she has, in the 2 years preceding the renewal application, completed at least 24 points of acceptable continuing education.
- OT 3.06(3) (3) At least 12 of the points shall be accumulated through professional development activities related to occupational therapy in the following categories set forth in the following table. - See PDF for table 

OT 3.06 Note

Note: "Contact hour" as used in the table means not less than 50 minutes of actual professional activity.

- OT 3.06(4) (4) Evidence of compliance with this section such as certificates of completion shall be retained by each license holder through the biennium following the biennium for which credit is required for renewal of license.
- OT 3.06(5) (5) The board may require any license holder to submit evidence of compliance with this section to the board for an audit at any time during the biennium following the biennium for which credit is required for license renewal.
- OT 3.06(6) (6) During the time between initial licensure and commencement of a full 2-year licensure period, new licensees shall not be required to meet continuing education requirements.
- OT 3.06(7) (7) A licensee may apply to the board for a postponement or waiver of the requirements of this section on the grounds of prolonged

illness, disability, or other grounds constituting hardship. The board shall consider each request individually on its merits and may grant a postponement, partial waiver, or total waiver of the requirements.

OT 3.06 History

History: CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03; CR 06-115: cr. (6) and (7) Register May 2007 No. 617, eff. 6-1-07.

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- OT 4.02(2)(e) (e) Adaptation of environments and processes, including the application of ergonomic principles, to enhance performance and safety in daily life roles.
- OT 4.02(2)(f) (f) Application of physical agent modalities based on a physician order as an adjunct to or in preparation for engagement in treatment. Application is performed by an experienced therapist with demonstrated and documented evidence of theoretical background, technical skill and competence.
- OT 4.02 Note **Note:** An example of standards for evaluating theoretical background, technical skill and competence is the position paper on physical agent modalities issued by the American occupational therapy association (AOTA). AOTA may be contacted on the web at www.aota.org, and by mail at American occupational therapy association, P.O. Box 31220, Bethesda, MD 20824-1220.
- OT 4.02(2)(g) (g) Evaluating and providing intervention and case management in collaboration with the client, family, caregiver or other involved individuals or professionals.
- OT 4.02(2)(h) (h) Educating the client, family, caregiver, or others in carrying out appropriate nonskilled interventions.
- OT 4.02(2)(i) (i) Consulting with groups, programs, organizations, or communities to provide population-based services.
- OT 4.02 History History: CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03.
- OT 4.03 **OT 4.03 Standards of practice.** Occupational therapists and occupational therapy assistants shall adhere to the minimum standards of practice of occupational therapy that have become established in the profession, including but not limited to the following areas:
- OT 4.03(1) **(1) SCREENING.**
- OT 4.03(1)(a) (a) An occupational therapist, alone or in collaboration with an occupational therapy assistant, when practicing either independently or as a member of a treatment team, shall identify individuals who present deficits or declines in occupational performance areas and performance components.
- OT 4.03(1)(b) (b) Screening methods shall take into consideration the occupational performance contexts relevant to the individual.
- OT 4.03(1)(c) (c) Screening methods may include interviews, observations, testing and records review to determine the need for further evaluation and intervention.
- OT 4.03(1)(d) (d) The occupational therapist or occupational therapy assistant shall transmit screening results and recommendations to all appropriate persons.
- OT 4.03(2) **(2) REFERRAL AND PHYSICIAN ORDERS.**
- OT 4.03(2)(a) (a) Evaluation, rehabilitation treatment, and implementation of treatment with individuals with specific medical conditions shall be based on an order from a physician, dentist or podiatrist.
- OT 4.03(2)(b) (b) Referrals may be accepted from advanced practice nurses, chiropractors, optometrists, physical therapists, physician assistants, psychologists, or other health care professionals.
- OT 4.03(2)(c) (c) Although a referral is not required, an occupational therapist or occupational therapy assistant may accept a referral for the purpose of providing services which include consultation,

- habilitation, screening, client education, wellness, prevention, environmental assessments, and work-related ergonomic services.
- OT 4.03(2)(d) (d) Physician orders shall be in writing. However, oral referrals may be accepted if they are followed by a written and signed order by the referring physician within 72 hours from the date on which the client consults with the occupational therapist or occupational therapy assistant.
- OT 4.03(2)(e) (e) Physician order or referral from another health care provider is not required for evaluation or intervention if an occupational therapist or occupational therapy assistant provides services in an educational environment, including the child's home, for children and youth with disabilities pursuant to rules promulgated by the federal individuals with disabilities education act, the department of public instruction and the department of health services, or provides services in an educational environment for children and youth with disabilities pursuant to the code of federal regulations.
- OT 4.03(3) (3) EVALUATION.
- OT 4.03(3)(a) (a) The occupational therapist directs the evaluation process upon receiving a physician order or referral from another health care provider. An occupational therapist alone or in collaboration with the occupational therapy assistant shall prepare an occupational therapy evaluation for each individual referred for occupational therapy services. The occupational therapist interprets the information gathered in the evaluation process.
- OT 4.03(3)(b) (b) The evaluation shall consider the individual's medical, vocational, social, educational, family status, and personal and family goals, and shall include an assessment of how occupational performance components and occupational performance contexts influence the individual's functional abilities and deficits in occupational performance areas.
- OT 4.03(3)(c) (c) Evaluation methods may include observation, interviews, records review, and the use of structured or standardized evaluative tools or techniques.
- OT 4.03(3)(d) (d) When standardized evaluation tools are used, the tests shall have normative data for the individual's characteristics. If normative data are not available, the results shall be expressed in a descriptive report. Collected evaluation data shall be analyzed and summarized to indicate the individual's current status.
- OT 4.03(3)(e) (e) Evaluation results shall be documented in the individual's record and shall indicate the specific evaluation tools and methods used.
- OT 4.03(3)(f) (f) Evaluation results shall be communicated to the referral source and to the appropriate persons in the facility and community.
- OT 4.03(3)(g) (g) If the results of the evaluation indicate areas that require intervention by other health care professionals, the individual shall be appropriately referred or an appropriate consultation shall be requested.
- OT 4.03(3)(h) (h) Initial evaluation shall be completed and results documented within the time frames established by the applicable facility, community, regulatory, or funding body.

- OT 4.03(4) **(4) PROGRAM PLANNING.**
- OT 4.03(4)(a) **(a)** The occupational therapist is responsible for the development of the occupational therapy intervention plan. The occupational therapist develops the plan collaboratively with the client, and may include the occupational therapy assistant and team working with the client, including the physician – as indicated.
- OT 4.03(4)(b) **(b)** The program shall be stated in measurable and reasonable terms appropriate to the individual's needs, functional goals and prognosis and shall identify short and long term goals.
- OT 4.03(4)(c) **(c)** The program shall be consistent with current principles and concepts of occupational therapy theory and practice.
- OT 4.03(4)(d) **(d)** In developing the program, the occupational therapist alone or in collaboration with the occupational therapy assistant shall also collaborate, as appropriate, with the individual, family, other health care professionals and community resources; shall select the media, methods, environment, and personnel needed to accomplish the goals; and shall determine the frequency and duration of occupational therapy services provided.
- OT 4.03(4)(e) **(e)** The program shall be prepared and documented within the time frames established by the applicable facility, community, regulatory, or funding body.
- OT 4.03(5) **(5) PROGRAM IMPLEMENTATION.**
- OT 4.03(5)(a) **(a)** The occupational therapy program shall be implemented according to the program plan previously developed. The occupational therapist may delegate aspects of intervention to the occupational therapy assistant dependent on the occupational therapy assistant's demonstrated and documented service competency.
- OT 4.03(5)(b) **(b)** The individual's occupational performance areas and occupational performance components shall be routinely and systematically evaluated and documented.
- OT 4.03(5)(c) **(c)** Program modifications shall be formulated and implemented consistent with the changes in the individual's occupational performance areas, occupational performance components and occupational performance contexts.

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Chapter OT 5

UNPROFESSIONAL CONDUCT

OT 5.01 Authority and purpose.

OT 5.02 Unprofessional conduct defined.

- OT 5.01 **OT 5.01 Authority and purpose.** The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to establish the rules of conduct for occupational therapists and occupational therapy assistants.
- OT 5.01 History History: CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03.
- OT 5.02 **OT 5.02 Unprofessional conduct defined.** "Unprofessional conduct" means doing, or aiding or abetting, any of the following:
- OT 5.02(1) (1) Violating or attempting to violate any provision or term of ss. 448.96 to 448.970, Stats., or of any rule of the board.
- OT 5.02(2) (2) Violating or attempting to violate any term, provision, or condition of any order of the board.
- OT 5.02(3) (3) Knowingly making or presenting or causing to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other item in connection with any application for license.
- OT 5.02(4) (4) Practicing fraud, forgery, deception, collusion, or conspiracy in connection with any examination for license.
- OT 5.02(5) (5) Giving, selling, buying, bartering, or attempting to give, sell, buy, or barter any license.
- OT 5.02(6) (6) Engaging or attempting to engage in practice under any license under any given name or surname other than that under which originally licensed or registered to practice in this or any other state. This subsection does not apply to change of name resulting from marriage, divorce, or order by a court of record.
- OT 5.02(7) (7) Any practice or conduct which may constitute a danger to the health, welfare, or safety of client or public.
- OT 5.02(8) (8) Practicing or attempting to practice under any license when unable to do so with reasonable skill and safety to clients.
- OT 5.02(9) (9) Practicing or attempting to practice under any license beyond the scope of that license.
- OT 5.02(10) (10) Offering, undertaking, or agreeing to treat or cure a disease or condition by a secret means, method, device, or instrumentality; or refusing to divulge to the board upon demand the means, method,

- device, or instrumentality used in the treatment of a disease or condition.
- OT 5.02(11) **(11)** Representing that a manifestly incurable disease or condition may be or will be permanently cured; or that a curable disease or condition can be cured within a stated time, if this is not the fact.
- OT 5.02(12) **(12)** Knowingly making any false statement, written or oral, in practicing under any license, with fraudulent intent; or obtaining or attempting to obtain any professional fee or compensation of any form by fraud or deceit.
- OT 5.02(13) **(13)** Willfully divulging a privileged communication or confidence entrusted by a client or deficiencies in the character of clients observed in the course of professional attendance, unless lawfully required to do so.
- OT 5.02(14) **(14)** Engaging in uninvited, in-person solicitation of actual or potential clients who, because of their particular circumstances, are vulnerable to undue influence; or engaging in false, misleading or deceptive advertising.
- OT 5.02(15) **(15)** Having a license, certificate, permit, registration, or other practice credential granted by another state or by any agency of the federal government to practice occupational therapy, which becomes limited, restricted, suspended, or revoked, or having been subject to other adverse action by the state licensing authority or by any agency of the federal government including the denial or limitation of an original credential, or the surrender of a credential, whether or not accompanied by findings of negligence or unprofessional conduct.
- OT 5.02(16) **(16)** Conviction of any crime the circumstances of which substantially relate to the circumstances of the practice of occupational therapy. A certified copy of a judgment of a court record showing such conviction, within this state or without, shall be presumptive evidence.
- OT 5.02(17) **(17)** Aiding or abetting the unlicensed practice of occupational therapy.
- OT 5.02(18) **(18)** Violating or aiding and abetting the violation of any law or administrative rule or regulation the circumstances of which substantially relate to the circumstances of the practice of occupational therapy.
- OT 5.02(19) **(19)** Failing to report to the board or to institutional supervisory personnel any violation of the rules of this chapter by a licensee.
- OT 5.02(20) **(20)** Engaging in inappropriate sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a client. For the purposes of this subsection, an adult receiving treatment shall continue to be a client for 2 years after the termination of professional services. If the person receiving treatment is a minor, the person shall continue to be a client for the purposes of this subsection for 2 years after termination of services, or for 2 years after the client reaches 18 years of age, whichever is longer.

OT 5.02 History

History: CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03.

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