



WEB/TELECONFERENCE
OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD
Room 121A, 1400 East Washington Avenue, Madison
Contact: Tom Ryan (608) 266-2112
June 3, 2014

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 record of the actions of the Board.

AGENDA

9:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A) Adoption of Agenda**
- B) Welcome New Members
- C) Approval of Minutes of February 10, 2014 (4-7)**
- D) Administrative Updates**
 - 1) Staff Updates
 - 2) Appointments/Reappointments/Confirmations
 - 3) DLSC Paperless Screening Panel Initiative **(8-11)**
 - a) **APPEARANCE** – Janie Brischke, Cortney Keo, Kelley Foster, and Matthew Niehaus (Department Staff)
- E) Executive Order 61 – Board Consideration
- F) Telemedicine – Board Discussion
- G) Legislative/Administrative Rule Matters:**
 - 1) Current and Future Rule Making and Legislative Initiatives
 - 2) Administrative Rules Report
 - 3) Correspondence from Wisconsin Occupational Therapy Association (WOTA) Regarding Physician Referral – CR 13-109 **(12-28)**
 - 4) Adoption Order – CR 13-109, Relating to Occupational Therapy Practice Standards **(29)**
- H) Speaking Engagement(s), Travel, or Public Relation Request(s)

- I) Items Added After Preparation of Agenda:
- 1) Introductions, Announcements and Recognition
 - 2) Administrative Updates
 - 3) Education and Examination Matters
 - 4) Credentialing Matters
 - 5) Practice Matters
 - 6) Legislation/Administrative Rule Matters
 - 7) Liaison Report(s)
 - 8) Informational Item(s)
 - 9) Disciplinary Matters
 - 10) Presentations of Petition(s) for Summary Suspension
 - 11) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
 - 12) Presentation of Proposed Decisions
 - 13) Presentation of Interim Order(s)
 - 14) Petitions for Re-Hearing
 - 15) Petitions for Assessments
 - 16) Petitions to Vacate Order(s)
 - 17) Petitions for Designation of Hearing Examiner
 - 18) Requests for Disciplinary Proceeding Presentations
 - 19) Motions
 - 20) Petitions
 - 21) Appearances from Requests Received or Renewed
 - 22) Speaking Engagement(s), Travel, or Public Relation Request(s)
- J) Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (§ 19.85 (1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.).

K) Case Status Report (30)

L) Case Closing(s)

- 1) 13 OTB 006 (J.K.E.) **(31-33)**

M) Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) Disciplinary Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petition(s) for Summary Suspensions
- 7) Proposed Stipulations, Final Decisions and Orders
- 8) Administrative Warnings
- 9) Proposed Decisions
- 10) Matters Relating to Costs
- 11) Complaints

- 12) Case Closings
- 13) Case Status Report
- 14) Petition(s) for Extension of Time
- 15) Proposed Interim Orders
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

N) Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

- O) Open Session Items Noticed Above not Completed in the Initial Open Session
- P) Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate
- Q) Ratification of Licenses and Certificates

ADJOURNMENT

**OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD
VIRTUAL MEETING MINUTES
February 10, 2014**

PRESENT: Mylinda Barisas-Matula, Brian Holmquist (at DSPS), Deborah McKernan-Ace (at DSPS), Dorothy Olson, Corliss Rice

EXCUSED: Laura O'Brien, David Cooper

STAFF: Tom Ryan, Executive Director; Daniel Agne, Bureau Assistant; and other Department staff

CALL TO ORDER

Brian Holmquist, Chair, called the meeting to order at 9:35 A.M. A quorum of five (5) members was confirmed.

ADOPTION OF AGENDA

MOTION: Mylinda Barisas-Matula moved, seconded by Dorothy Olson, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Deborah McKernan-Ace moved, seconded by Corliss Rice, to approve the minutes of October 29, 2013 as published. Motion carried unanimously.

ADMINISTRATIVE MATTERS

ELECTION OF OFFICERS

BOARD CHAIR

NOMINATION: Mylinda Barisas-Matula nominated Brian Holmquist for the Office of Board Chair. Nomination carried.

Tom Ryan called for other nominations three (3) times.

Brian Holmquist was elected as Board Chair.

VICE CHAIR

NOMINATION: Mylinda Barisas-Matula nominated Mylinda Barisas-Matula for the Office of Vice Chair. Nomination carried.

Tom Ryan called for other nominations three (3) times.

Mylinda Barisas-Matula was elected as Vice Chair.

SECRETARY

NOMINATION: Brian Holmquist nominated Deborah McKernan-Ace for the Office of Secretary. Nomination carried.

Tom Ryan called for other nominations three (3) times.

Deborah McKernan-Ace was elected as Secretary.

2014 ELECTION RESULTS	
Board Chair	Brian Holmquist
Vice Chair	My linda Barisas-Matula
Secretary	Deborah McKernan-Ace

APPOINTMENT OF LIAISONS, ALTERNATES, AND DELEGATES

MOTION: My linda Barisas-Matula moved, seconded by Dorothy Olson, to approve the following appointments made by the Chair:

- 1) **Credentialing and Education Liaisons:** Deborah McKernan-Ace and My linda Barisas-Matula; and Dorothy Olson and Brian Holmquist as the Alternates
- 2) **Monitoring Liaison:** My linda Barisas-Matula; and Brian Holmquist as the Alternate
- 3) **Examination Liaisons:** Deborah McKernan-Ace and Brian Holmquist; and My linda Barisas-Matula and Dorothy Olson as the Alternates
- 4) **Legislative Liaison:** Brian Holmquist; and My linda Barisas-Matula as the Alternate
- 5) **Travel Liaison:** Brian Holmquist; and My linda Barisas-Matula as the Alternate
- 6) **Rules Liaison:** Deborah McKernan-Ace; and Brian Holmquist as the Alternate
- 7) **Professional Assistance Procedure Liaison:** My linda Barisas-Matula; and Brian Holmquist as the Alternate
- 8) **Digest Coordinator:** NONE
- 9) **Screening Panel:** My linda Barisas-Matula, Dorothy Olson, and Brian Holmquist; and Deborah McKernan-Ace, Corliss Rice, and Laura O'Brien as the Alternates

Motion carried unanimously.

DELEGATED AUTHORITY MOTIONS

- MOTION:** Brian Holmquist moved, seconded by Deborah McKernan-Ace, to adopt the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today's agenda packet. Motion carried unanimously.
- MOTION:** Brian Holmquist moved, seconded by Dorothy Olson, that the Board delegates authority to the Chair (or order of succession) to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair has the ability to delegate this signature authority for purposes of facilitating the completion of assignments during or between meetings. The Chair delegates the authority to the Executive Director to sign the name of the Chair (or order of succession) on documents as necessary. Motion carried unanimously.
- MOTION:** Dorothy Olson moved, seconded by Corliss Rice, that, in order to facilitate the completion of assignments between meetings, the Board delegates its authority by order of succession to the Chair, highest ranking officer, or longest serving member of the Board, to appoint liaisons to the Department to act in urgent matters and to act when knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS:

10:00 A.M. – PUBLIC HEARING – CR 13-109 RELATING TO OCCUPATIONAL THERAPY PRACTICE STANDARDS

Kip Schick, Wisconsin Physical Therapy Association, appeared to comment on CR 13-109.

Teri Black and Kelly Waala, Wisconsin Occupational Therapy Association, appeared to comment on CR 13-109.

CLEARINGHOUSE REPORT ON CR 13-109 RELATING TO OCCUPATIONAL THERAPY PRACTICE STANDARDS

- MOTION:** Brian Holmquist moved, seconded by Mylinda Barisas-Matula, to authorize Deborah McKernan-Ace, and Mylinda Barisas-Matula as an Alternate, and then the highest ranking or longest serving member of the Board in order of succession, to approve the Final Draft of CR 13-109 as amended and the Legislative Report before filing with the governor and the legislature. Motion carried unanimously.
- MOTION:** Mylinda Barisas-Matula moved, seconded by Deborah McKernan-Ace, to accept all Clearinghouse comments for CR 13-109 relating to Occupational Therapy Practice Standards. Motion carried unanimously.

INFORMATIONAL ITEMS

OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD'S LETTER REGARDING DEPARTMENT OF PUBLIC INSTRUCTION'S "GUIDANCE RELATED TO OSEP'S LETTER TO COUILLARD"

MOTION: Mylinda Barisas-Matula moved, seconded by Dorothy Olson, to approve the letter responding to "Guidance Related to OSEP's Letter to Couillard," as amended, and to submit the letter to the Department of Public Instruction. Motion carried unanimously.

Corliss Rice left the meeting at 1:25 P.M.

ADJOURNMENT

MOTION: Deborah McKernan-Ace moved, seconded by Brian Holmquist, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 1:26 P.M.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Matthew C. Niehaus, DSPS WebMaster		2) Date When Request Submitted: 04/07/14 Items will be considered late if submitted after 4:30 p.m. on the deadline date: <ul style="list-style-type: none"> ▪ 8 business days before the meeting for paperless boards ▪ 14 business days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Occupational Therapy Affiliated Credentialing Board			
4) Meeting Date: 06/03/14	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? DLSC Paperless Screening Panel Initiative - APPEARANCE	
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? <input checked="" type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Jane Brischke: Program & Policy Analyst – Advanced Cortney Keo: Records Management Supervisor Kelley Foster: Medical Examining Board Intake Specialist Matthew C. Niehaus: DSPS Webmaster The above staff will be appearing before the Board to present the DLSC Paperless Screening Panel Initiative. Beginning in September, Screening Panel Members will be able to access case materials through the Board SharePoint site.			
11) Authorization			
		04/07/14	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
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 Bureau Assistant prior to the start of a meeting.			

BOARD APPEARANCE REQUEST FORM

Appearance Information

Board Name: Occupational Therapy Affiliated Credentialing Board

Board Meeting Date: 06/03/14

Person Submitting Agenda Request: Matthew C. Niehaus: DSPP WebMaster

Persons requesting an appearance:

Jane Brischke: Program & Policy Analyst – Advanced

Cortney Keo: Records Management Supervisor

Kelley Foster: Medical Examining Board Intake Specialist

Matthew C. Niehaus: DSPP Webmaster

Reason for Appearance:

The above DSPP staff are appearing before the Board to present the DLSC Paperless Screening Panel.

Medical Examining Board > Legal Services and Compliance > All Documents >

This is what DSPS Intake Staff will see when they upload your screening panel files.

Medical Examining Board

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<input type="checkbox"/>	Type	Name	Modified	<input type="checkbox"/>	Modified By
		Carolyn Ogland Vukich	9/24/2013 3:00 PM		Niehaus, Matt - DSPS
		Gene Nusser	9/24/2013 3:00 PM		Niehaus, Matt - DSPS
		Greg Collins	9/24/2013 3:00 PM		Niehaus, Matt - DSPS
		Hubert Cumberlanddale	11/11/2013 12:14 PM		Niehaus, Matt - DSPS
		Jim Barr	9/24/2013 3:00 PM		Niehaus, Matt - DSPS
		Jude Genereaux	9/24/2013 3:00 PM		Niehaus, Matt - DSPS
		Kenneth Simons	9/24/2013 3:00 PM		Niehaus, Matt - DSPS
		Mary Jo Capodice	9/24/2013 3:00 PM		Niehaus, Matt - DSPS
		Rodney Erickson	9/24/2013 3:01 PM		Niehaus, Matt - DSPS
		Russell Yale	9/24/2013 3:01 PM		Niehaus, Matt - DSPS
		Screening Attorney	9/24/2013 3:23 PM		Niehaus, Matt - DSPS
		Sridhar Vasudevan	9/24/2013 3:01 PM		Niehaus, Matt - DSPS
		Suresh Misra	9/24/2013 3:01 PM		Niehaus, Matt - DSPS
		Timothy Swan	9/24/2013 3:01 PM		Niehaus, Matt - DSPS
		Timothy Westlake	9/24/2013 3:01 PM		Niehaus, Matt - DSPS

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This is what you will see when you log in to check your screening panel documents. Much like your Board Member folder, this folder is visible only to you and the DSPS staff member responsible for adding the files for your review.

Files will be cleared monthly and password protected for added security.

Bookmarks will be added and comments will be enabled, much like your agenda packets.

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

AGENDA REQUEST FORM

Name and Title of Person Submitting the Request: Shawn Leatherwood		Date When Request Submitted: May 28, 2014	
		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 Therapist Affiliated Credentialing Board			
Board Meeting Date: June 3, 2014	Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	How should the item be titled on the agenda page? CR 13-109 OT 1, 2, 3 Practice Standards	
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 and what time? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No	Name of Case Advisor(s), if required: N/A	
Describe the Issue and action that should be addressed: The Board will discuss OT 4.03 (2) regarding physician referral.			
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 start of meeting.			
Authorization:			
<i>Shawn Leatherwood</i>		<i>May 28, 2014</i>	
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
OCCUPATIONAL THERAPISTS
AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : OCCUPATIONAL THERAPISTS
OCCUPATIONAL THERAPISTS : AFFILIATED CREDENTIALING
AFFILIATED CREDENTIALING : BOARD
BOARD : ADOPTING RULES
 : (CLEARINGHOUSE RULE 13-109)

PROPOSED ORDER

An order of the Occupational Therapists Affiliated Credentialing Board to repeal OT 2.07 (5) and 3.06 (b) (Note); to amend OT 2.03 (2) (e), 2.03 (2) (j), 2.07 (4) and (6), 3.02, 3.05, 4.02 (2) (intro.), 4.02 (2) (a) and (b), 4.03 (1) (a), 4.03 (2) (title), 4.03 (2) (c), (d), and (e), 4.03 (3) (a), (b), and (f), 4.03 (5) (b) and (c), 4.03 (6) (b) and (c), 4.05 (6) and (7) (a); to repeal and recreate OT 1.02; and to create OT 3.06 (r), 4.02 (2) (j) to (r) and 4.02 (2) (intro.) (Note), relating to occupational therapy practice standards.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

s. 448.965, Stats.

Statutory authority:

ss. 15.085 (5) (b), 227.11 (2) (a), 448.965, Stats.

Explanation of agency authority:

The Occupational Therapists Affiliated Credentialing Board (Board) is authorized generally, pursuant to s. 15.08 (5) (b), Stats., to promulgate rules for guidance within its profession. The Board may also promulgate rules that interpret statutes they enforce or administer per s. 227.11 (2) (a), Stats. Section 448.965 (2), Stats., is administered by the Occupational Therapist Affiliated Credentialing Board and states, “[t]he affiliated credentialing board may promulgate rules that define the scope of practice of occupational therapy or the scope of assisting in the practice of occupational therapy.” This proposed rule seeks to modernize practice standards and bring the code in line with current practice within the profession. Therefore, the Board is authorized both generally and specifically to promulgate the proposed rules.

Related statute or rule:

None.

Plain language analysis:

The Occupational Therapist Affiliated Credentialing Board (Board) reviewed its rules and determined that the rules were outdated. The Board identified several key areas in the rules that were not typical of practice within the profession. The Board addressed these key areas by redefining terms throughout the entire chapter for the purpose of adding clarity to the rules. The Board was also prompted by the American Occupational Therapy Association (AOTA) to modernize its rules and make them more consistent with the AOTA's Model Practice Act. The Board will incorporate some of the language from the AOTA Model Practice Act within the proposed rules, where necessary, to give greater direction to practicing occupational therapist and occupational therapy assistants. Ultimately, the Board, via the proposed rule, seeks to institute changes that will update the rules regulating occupational therapist with current practices within the profession.

SECTION 1. repealed and recreated the definitions section.

SECTION 2. increases the time period from 3 to 5 years that an applicant may be required to complete an oral examination, if they have not practiced prior to their application.

SECTION 3. amends OT 2.03 (2) (j) by omitting the term "been".

SECTION 4. repeals OT 2.07 (5).

SECTION 5. amends language regarding expiration of temporary licensure.

SECTION 6. amends the biennial renewal date from November 1 to June 1.

SECTION 7. repeals the note found in OT 3.06 (b) and the corresponding table.

SECTION 8. creates OT 3.06 (r) and added it to the table.

SECTION 9. amends language found in OT 4.02 (2), (a) and (b).

SECTION 10. creates a note following OT 4.02 (2) (intro.).

SECTION 11. creates additional provisions to the occupational therapy services listed in s. OT 4.02 (2).

SECTION 12. adds language to OT 4.03 (1) (a) specifying the objectives of occupational therapy.

SECTION 13. amends the title in OT 4.03 (2) by striking the terms “referral” and “physician”.

SECTION 14. removes terms and clarifies the distinction between orders and referrals.

SECTION 15. adds terms to substitute health care professional instead of health care provider as well as updated terms related to performance skills and performance patterns.

SECTION 16. clarifies the terms related to program implementation.

SECTION 17. amends OT 4.03 (6) (b) and (c) by adding terms that specify the support system that should be in place for discontinuation of services.

SECTION 18. amends OT 4.05 (6) and (7) (a) by deleting unnecessary language.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois: The Illinois Occupational Therapy Practice Act ILL. Admin. Code tit. 68 §1315.100 governs OT practice in Illinois. The code sets forth provisions for modalities in occupational therapy, supervision of occupational therapy assistants and several other sections that the Wisconsin rules do not cover.

Iowa: Iowa administrative code defines occupational therapy practice which includes physical agent modalities 645 IAC 206.1, and sets forth a Code of Ethics for occupational therapist 645 IAC 208.1, and grounds for discipline. 645 IAC 209. Other topics covered include continuing education and supervision requirements.

Michigan: In Michigan Occupational Therapists are governed under the Public Health Code 333.18313 MCL and the Department of Consumer and Industry Services. Michigan statutes and administrative code do not set forth provisions regarding modalities in occupational therapy or practice and supervision nor does it outline topic areas for the completion of continuing education credits unlike the current Wisconsin rules.

Minnesota: Minnesota statutes govern the scope of practice for Occupational Therapists. Minn. Stat. §§ 148.6401 -148.6450. The provisions cover such topics as physical agent modalities and supervision of occupational therapy assistants similar to the current Wisconsin rules.

Summary of factual data and analytical methodologies:

The impetus for the proposed rule was a review by the Board which indicated that there was a gap between terminology currently being used in the profession and the language that was in the rule. The Board decided to address this issue by drafting the proposed rule. No other factual data or analytical methodologies were used.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

These proposed rules will not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis are attached.

Effect on small business:

These proposed rules will not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Shawn Leatherwood Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608 261-4438.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Shawn Leatherwood Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to Shancethea.Leaherwood@wisconsin.gov. Comments must be received on or before February 10, 2014 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. OT 1.02 is repealed and recreated to read:

OT 1.02 (1) "Activity demands" means the specific features of an activity that influence the type and amount of the effort required to perform the activity. Activity demands include the specific objects, space demands, social demands, sequence and

timing, actions and of skills and body functions, and body structures required to carry out the activity.

(2) "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.

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

(4) "Body functions" means the physiological functions of body systems , including mental, sensory, pain, neuromusculoskeletal, movement, cardiovascular, hematological, immunological, respiratory, voice , speech, digestive, metabolic, endocrine, genitourinary, reproductive, lymphatic, integumentary, and related structures.

(5) "Body structures" means anatomical parts of the body, such as organs, limbs, and their components that support body functions.

(6) "Client factors" means values, beliefs, spirituality, body functions, and body structures of the client that may affect performance of occupation and activities.

(7) "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.

(8) "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.

(9) "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.

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

(11) "Habilitation" means an occupational therapy intervention designed for the education, training or support services provided to individuals to assist them in acquiring and maintaining 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.

(12) "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.

(13) "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.

(14) "Occupation" means the functional abilities that occupational therapy addresses in the areas of activities of daily living, instrumental activities of daily living, rest and sleep, education, work and vocational activities, play, leisure, and social participation.

(15) "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 or a program approved by the World Federation of Occupational Therapy.

(16) "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 or a program approved by the World Federation of Occupational Therapy.

(17) "Order" means the practice of identifying the need for occupational therapy evaluation and intervention and delegating the responsibility to perform the evaluation and intervention to an occupational therapist.

(18) "Performance contexts and environments" means a variety of interrelated conditions within and surrounding the client that influence an individual's engagement in desired or required occupational performance including: personal, age, gender, education, cultural such as customs, beliefs, behaviors, temporal, including maturation, time of day or year, duration, stage of disability, physical, natural, and built environments, virtual, communication which occurs absent of physical contact via simulated, real time or near time activity, and social such as relationships, and expectations of persons groups and systems.

(19) "Performance patterns" means patterns of behavior related to an individual's daily life activities that are habitual or routine.

(20) "Performance skills" means the skills and abilities that an individual demonstrates in the actions they perform including sensorimotor, sensory-perceptual, emotional regulation, cognition, communication, and social skills.

(21) "Prevention" means the fostering of normal development, promoting health and wellness, sustaining and protecting existing functions and abilities, preventing disability, or supporting levels of restoration or change to enable individuals to maintain maximum independence.

(22) "Referral" means the practice of requesting occupational therapy services.

(23) "Rehabilitation" means the process of treatment and education to restore a person's ability to live and work as independently as possible after a disabling injury or illness.

(24) "Screening" means the review of occupational performance skills in natural environments or educational, or clinical settings to determine the significance of any discrepancy between current performance and expected level of performance, which may be done in consultation with a physician.

(25) "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.

(26) "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.

SECTION 2. OT 2.03 (2) (e) is amended to read:

OT 2.03 (2) (e) Has not practiced occupational therapy for a period of ~~3~~ 5 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.

SECTION 3. OT 2.03 (2) (j) is amended to read:

OT 2.03 (2) (j) Has ~~been~~ graduated from an occupational therapy school not approved by the board.

SECTION 4. OT 2.07 (5) is repealed.

SECTION 5. OT 2.07 (4) and (6) are amended to read:

OT 2.07 (4) ~~Except as specified in sub. (5) a~~ A temporary license expires on the date the applicant is notified that he or she has failed the national certification examination for permanent licensure or on the date the board grants or denies an applicant permanent licensure, whichever is later.

OT 2.07 (6) A temporary license shall remain in effect for 6 months and may not be renewed.

SECTION 6. OT 3.02 and 3.05 (intro.) are amended to read:

OT 3.02 Registration required; method of registration. Each licensee shall register biennially with the board. Prior to ~~November~~ June 1 of each odd numbered year the department shall mail to each licensee at his or her last known address as it appears in the records of the board an application form for registration. Each licensee shall complete the application form and return it with the required fee to the department. ~~The board shall notify the licensee within 30 business days of receipt of a completed registration form whether the application for registration is approved or denied.~~

OT 3.05 Failure to be registered. Failure to renew a license by November ~~November~~ June 1 of an odd numbered years year shall cause the license to lapse. A licensee who allows the license to lapse may apply to the board for reinstatement of the license as follows:

SECTION 7. OT 3.06 (b) Table (Note) is repealed.

SECTION 8. OT 3.06 (r) Table is created to read:

Professional Development Activities	Professional Development Points
(r) Reimbursement or ethics courses.	1 point per contact hour.

SECTION 9. OT 4.02 (2) (intro.), (a) and (b) are amended to read:

OT 4.02 (2) Occupational therapy ~~services~~ interventions include, ~~but are not limited to~~ the following:

OT 4.02 (2) (a) Screening, evaluating, developing, improving, sustaining, or restoring skills in activities of daily living, work or productive activities, ~~including~~ instrumental activities of daily living, and play, and leisure activities, rest and sleep education, and social participation.

OT 4.02 (2) (b) Evaluating, developing, remediating, or restoring sensorimotor, sensoriperceptual neuromusculoskeletal, emotional regulation, cognitive cognition, or communication, social skills, or psychosocial components of performance.

SECTION 10. OT 4.02 (2) (intro.) (Note) is created to read:

Note: A comprehensive list of occupational therapy interventions can be found in the Model Practice Act of the American Occupational Therapy Association (AOTA). The AOTA may be contacted on the web at www.aota.org or by mail at American occupational therapy association, P.O. Box 31220, Bethesda, MD 20824-1220.

SECTION 11. OT 4.02 (2) (j) to (r) are created to read:

- OT 4.02 (2) (j)** Therapeutic use of occupations, exercises, and activities.
- (k) Training in self-care, self-management, health management and maintenance, home management, community work reintegration, and school activities and work performance.
- (L) Therapeutic use of self, including one's personality, insights, perceptions and judgments, as part of the therapeutic process.
- (m) Assessment, recommendation, and training in techniques to enhance functional mobility, including management of wheelchair and other mobility devices.
- (n) Vision and low vision rehabilitation.
- (o) Driver rehabilitation and community mobility.
- (p) Management of feeding, eating, and swallowing to enable eating and feeding performance.
- (q) Facilitating the occupational performance of groups, populations, or organizations through the modification of environments and adaptation processes.
- (r) Use of a range of specific therapeutic procedures, including wound care management; techniques to enhance sensory, perceptual, and cognitive processing; and pain management, lymphedema management, and manual therapy techniques, to enhance performance skills.

SECTION 12. OT 4.03 (1) (a) is amended to read:

OT 4.03 (1) (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 of their occupations areas and~~ including occupational performance components skills and performance components patterns.

SECTION 13. OT 4.03 (2) (title) and (a) are amended to read:

OT 4.03 (2) REFERRAL REFERRALS AND PHYSICIAN ORDERS. (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, or any other qualified health care professional.

SECTION 14. OT 4.03 (2) (c), (d), and (e) are amended to read:

OT 4.03 (2) (c) Although ~~a referral~~ an order 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) ~~Physician orders~~ Orders shall be in writing. However, ~~oral~~ verbal ~~referrals~~ orders may be accepted if they are followed by a written and signed order by the ~~referring physician~~ ordering professional within ~~72 hours~~ 3 days from the date on which the client consults with the occupational therapist or occupational therapy assistant.

OT 4.03 (2) (e) ~~Physician order~~ Orders or ~~referral~~ referrals from another health care ~~provider~~ professional ~~is~~ are 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.

SECTION 15. OT 4.03 (3) (a), (b), (f), and (4) (d) are amended to read:

OT 4.03 (3) (a) EVALUATION. The occupational therapist directs the evaluation process upon receiving ~~a physician~~ an order or referral from another health care ~~provider~~ professional. An occupational therapist alone or in collaboration with the occupational therapy assistant shall prepare an occupational therapy evaluation for each individual ~~referred~~ ordered for occupational therapy services. The occupational therapist interprets the information gathered in the evaluation process.

OT 4.03 (3) (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~~ skills, and ~~occupational performance patterns and their contexts and environments~~ influence the individual's functional abilities and deficits in ~~occupational~~ the performance areas of their occupations.

OT 4.03 (3) (f) Evaluation results shall be communicated to the ~~referral source~~ ordering professional and to the appropriate persons in the facility and community.

OT4.03 (4) (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~~ interventions provided.

SECTION 16. OT 4.03 (5) (b) and (c) are amended to read:

OT 4.03 (5) (b) The individual's occupations, occupational performance areas and, skills, and occupational performance components patterns, and occupational performance contexts and environments shall be routinely and systematically evaluated and documented.

OT 4.03 (5) (c) Program modifications shall be formulated and implemented consistent with the changes in the individual's occupational performance areas skills, occupational performance components patterns and occupational performance contexts and environments.

SECTION 17. OT 4.03 (6) (b) and (c) are amended to read:

OT 4.03 (6) (b) A comparison of the initial and current state of functional abilities and deficits in occupational performance areas skills, and occupational performance components patterns, affecting performance in the individual's occupations shall be made and documented.

OT 4.03 (6) (c) A discharge plan shall be prepared, consistent with the services interventions provided, the individual's goals, and the expected prognosis. Consideration shall be given to the individual's occupational performance contexts and environments including appropriate community resources for referral, and environmental factors or barriers that may need modification.

SECTION 18. OT 4.05 (6) (intro.) and (7) (a) is amended to read:

OT 4.05 (6) An occupational therapist or occupational therapy assistant may delegate to non-licensed personnel duties or functions ~~other than maintenance or restorative services to the clients, including but not limited to~~ the following services:

OT 4.05 (7) (a) Interpretation of referrals or ~~prescriptions~~ orders for occupational therapy services.

SECTION 19. Effective Date. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Member of the Board
Occupational Therapist Affiliated
Credentialing Board

From: dsps@wisconsin.gov [mailto:dsps@wisconsin.gov]
Sent: Thursday, May 22, 2014 9:08 PM
To: DSPS PracticeFAQ4
Subject: OTACB meeting

Board: Occupational Therapists Affiliated Credentialing Board
First Name: Teri
Last Name: Black
Association/Organization: Wisconsin Occupational Therapy Association
Address Line 1: [REDACTED]
City: Madison, WI
State: WI
Zip: [REDACTED]
Phone Number: [REDACTED]
Email: [REDACTED]

Would like to address the board related to Administrative rules review for barriers to small business. Negative Effect for OT of physician referral requirement on small businesses.



Governor Scott Walker
Wisconsin State Capitol
115 East Capitol
Madison, WI 53702

The Occupational Therapist Affiliated Credentialing Board (OTACB) in the Department of Safety and Professional Services reviewed its rules Wis. Admin. Code chs. 1, 2, 3 and 4 and determined that the rules were outdated. The Board identified several key areas in the rules that were not typical of practice within the profession. The Board was also prompted by the American Occupational Therapy Association (AOTA), who changed the definition of Occupational Therapy Practice for the AOTA Model Practice Act in April of 2011. The OT Board sought to incorporate some of the language from the AOTA Model Practice Act and to institute changes that will update the current code language with current practices within the profession.

The Wisconsin Occupational Therapy Association (representing over 5,000 OT professionals) has monitored the rules update process for a year, offered suggestions and appreciate the updated rules which more accurately represent practice. There was an issue that was not changed because the Board felt they did not have authority to make substantive content changes. Before the changed rules are signed into effect WOTA is asking that Governor Walker consider requesting that the OTACB remove the requirement of a Physician referral for the reasons outlined.

1. Occupational Therapists welcome Physician referral in medical model OT. We want the partnership with a physician and want the diagnosis of client problems to be initiated by the physician. In general OTs majorly practice under physician referral. In order to provide OT services a physician initiates the process of asking for OT services in medical model OT. The process is already in place by reimbursement systems to require Physician referral so it does not need to be written into the administrative rules for OT.
2. There are only 10 states nationwide that do require referral for OT in their licensure language. These are the 10 states: Alabama, Illinois, Indiana, Kansas, Minnesota, New York, Pennsylvania, Texas, Washington, and Wisconsin. So not requiring physician referral in OT regulatory language is a national standard that is followed by a majority of states (40).
3. OT Practice is so broad and inclusive of many services that would not require a physician to request them such as: prevention and wellness, consultation to industry and work environments, ergonomics, home modification, falls prevention, energy conservation joint protection, habilitation (teaching skills not yet learned) social skills training, behavior management, sensory strategies for children with autism and technology. Many of these are already covered in our rules as "*may have a referral but are not required to*", OTs want this to be continued.
4. Another reason that has been given is the requirement to have a physician referral/order may negatively impact small businesses who offer a range of services from OT to alternative health practices and pediatric practices that include services for children with autism and other developmental disabilities who may have a medical condition that they are not being seen by the OT for but requires that the OT get a referral/order for evaluation and rehabilitation treatment for individuals with medical conditions currently.

5-13-2013

To: Brett Davis
% Department of Health Services

Regarding: How current Licensure requirements for physician referral restrict patient access to health care services, i.e., Occupational Therapy Services while also increasing health care costs.

The current licensure requirement for physician referral to access OCCUPATIONAL THERAPY EVALUATION & TREATMENT results in the following:

- Limitation of patient access to independent health care organizations secondary to the large HMO's refusing to allow physician's within their HMO to refer patient's 'out of system', even for services not provided in house.
- Large HMO's limit patient access by refusing to allow outside providers to be a part of their system, thus again limiting competition.
- Health care cost increase secondary to lack of competition, for example, SaluCare Rehab charges \$60.00 for occupational therapy evaluation and \$160.00/hour for occupational treatment whereas the same service(s) within the local HMO(s) are billed at a much higher hourly rate.
- Patient's are unable to access services that are less costly while at the same time more effective than those provided 'in-house'. In essence, quality of care & lower costs fail to increase referrals due to blockage of those referrals by the large systems.
- The ability of the small health care business to survive is compromised secondary to the large system's demand that their physician's keep referrals 'in house'.
- If direct access without physician referral was allowed, it would be a first step in "opening up the market place" to 'access by all'.

Sincerely yours,

Judith Schabert

Judith A. Schabert, President
SaluCare Rehabilitative Service, S.C.

I am writing this letter in regard to the up coming licensure changes for practice in Occupational Therapy. I am an OTR who lives in rural Wisconsin. I wish to start an independent business servicing clients for therapy. Having each client required to have a physician referral limits my small business. I am hopeful that the Occupational Therapy techniques I have learned in combination with the Myofascial Techniques I have pursued with my continuing education will help improve peoples quality of life physically and mentally in my hometown. The requirement of the physician order limits my ability to make a living where I am. Many states allow a person to self refer for therapy.

Many people are living with chronic conditions or even recent injuries and are well aware of their problems, diagnosis, and limitations. Requiring them to go and get a doctors permission delays treatment and incurs extra expense. OTRs are trained at looking for limitations we are not there to diagnose but we do evaluate before treatment. The greatest asset we have is the persons self-report and examination of the limitations not the doctors orders. Most orders read evaluate and treat anyway. My point is an OT is liable to the licenses they hold so why no self referral? Hold us to our continued growth and educational requirements but let us have a chance making it in a small rural setting.

Jennifer Flanigan OTR

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

AGENDA REQUEST FORM

Name and Title of Person Submitting the Request: Shawn Leatherwood		Date When Request Submitted: May 9, 2014	
		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 Therapist Affiliated Credentialing Board			
Board Meeting Date: June 3, 2014	Attachments: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No	How should the item be titled on the agenda page? CR 13-109 OT 1, 2, 3 Practice Standards	
Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session Both	Is an appearance before the Board being scheduled? If yes, by whom and what time? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No	Name of Case Advisor(s), if required: N/A	
Describe the Issue and action that should be addressed: The Board will consider granting authority to the Board Chair to approve the Adoption Order for Clearinghouse Rule Number CR 13-109.			
Directions for including supporting documents: <ol style="list-style-type: none"> 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 start of meeting. 			
Authorization:			
<i>Shawn Leatherwood</i>		<i>May 9, 2014</i>	
Signature of person making this request		Date	
Supervisor signature (if required)		Date	
Bureau Director signature (indicates approval to add late items to agenda)		Date	