



STATE OF WISCONSIN
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OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD MEETING
Room 121C, 1400 E. Washington Avenue, Madison
DSPS Contact: Tom Ryan (608) 261-2378
APRIL 10, 2013

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

- A. Call to Order – Roll Call
- B. Declaration of Quorum
- C. Adoption of the Agenda (1-4)**
- D. Approval of Minutes of October 30, 2012 (5-6)**
- E. Introduction of New Board Member(s)
- F. Recognition of Board Member(s)
- G. Secretary Matters
- H. Administrative Matters**
 - 1) Staff Changes
 - 2) Election of Officers and Liaison Appointments (7-8)
 - a) **APPEARANCE – Credentialing Staff – Credentialing Liaison Roles and Credentialing Process**
 - b) **APPEARANCE – Ashley Horton, DLSC – Monitoring Liaison Roles and Delegated Authority (9-12)**
 - 3) Paperless Initiative (13-16)
 - 4) Other
- I. Legislative/Administrative Rule Matters**
 - 1) Executive Order 61 (17-24)
 - 2) Executive Order 50 – Review of Position Statements/FAQ's (25-30)
 - 3) Proposed Rules Concerning Practice Standards OT 1, 2, 3, 4 and 5 (31-38)

J. Informational Items

K. Items Added After Preparation of Agenda

- 1) Introductions, Announcements and Recognition
- 2) Presentations of Petition(s) for Summary Suspension
- 3) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
- 4) Presentation of Final Decisions
- 5) Disciplinary Matters
- 6) Executive Director Matters
- 7) Education and Examination Matters
- 8) Credentialing Matters
- 9) Class 1 Hearing(s)
- 10) Practice Matters
- 11) Legislation/Administrative Rule Matters
- 12) Liaison Report(s)
- 13) Informational Item(s)
- 14) Speaking Engagement(s), Travel, or Public Relation Request(s)

L. Public Comment(s)

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))

M. 10:30 A.M. - Conducting Oral Examination(s) for 3 candidate(s) (39-40)

N. DLSC Matters

- 1) Case Status Report
- 2) Case Closing(s)

O. Deliberation of Items Received after Preparation of Agenda

- 1) Disciplinary Matters
- 2) Education and Examination Matters
- 3) Credentialing Matters
- 4) Class 1 Hearings
- 5) Monitoring Matters
- 6) Professional Assistance Procedure (PAP) Matters
- 7) Petition(s) for Summary Suspensions
- 8) Petition(s) for Extension of Time
- 9) Proposed Stipulations, Final Decisions and Orders
- 10) Administrative Warnings
- 11) Proposed Decisions
- 12) Matters Relating to Costs
- 13) Motions
- 14) Petitions for Rehearing
- 15) Formal Complaints

16) Case Closings

17) Appearances from Requests Received or Renewed

P. Consulting with Legal Counsel

Q. Ratifying Licenses and Certificates

RECONVENE INTO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

ADJOURNMENT

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**OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD
MINUTES
OCTOBER 30, 2012**

PRESENT: Mylinda Barisas-Matula, David Cooper (Live Meeting), Brian Holmquist, Deborah McKernan-Ace, Dorothy Olson (Live Meeting), Corliss Rice (Live Meeting, joined at 9:12 a.m.)

STAFF: Tom Ryan, Executive Director; Yolanda McGowan, Legal Counsel (portion of meeting); Karen Rude-Evans, Bureau Assistant; Shawn Leatherwood, Paralegal

CALL TO ORDER

Brian Holmquist, Chair, called the meeting to order at 9:06 a.m. A quorum of five (5) members was confirmed.

ADOPTION OF AGENDA

Amendments:

- Item 14 (closed session) – Conducting Oral Examination – is deleted from the agenda
- Case Status Report (closed session) – insert at the end of the agenda

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

APPROVAL OF MINUTES OF APRIL 11, 2012

MOTION: Dorothy Olson moved, seconded by Gail Slaughter, to approve the minutes of April 11, 2012 as written. Motion carried unanimously.

ITEMS FOR BOARD DISCUSSION

Rules/Legislative Matters

- Review OT 1-OT 5 Relating to Modernizing Current Administrative Rules

MOTION: Gail Slaughter moved, seconded by Brian Holmquist, to allow Deborah McKernan-Ace and Mylinda Barisas-Matula to work with Shawn Leatherwood to create a rule draft reflecting the changes made today. Motion carried unanimously.

CLOSED SESSION

MOTION: Deborah McKernan-Ace moved, seconded by Dorothy Olson, 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: Mylinda Barisas-Matula-yes; David Cooper-yes; Brian Holmquist-yes; Deborah McKernan-Ace-yes; Dorothy Olson-yes; Corliss Rice-yes; Gail Slaughter. Motion carried unanimously.

The Board convened into closed session at 12:15 a.m.

RECONVENE TO OPEN SESSSION

MOTION: Mylinda Barisas-Matula moved, seconded by David Cooper, to reconvene to open session. Motion carried unanimously.

Open session reconvened at 12:22 p.m.

VOTING ON ITEMS CONSIDERED IN CLOSED SESSION IF VOTING IS APPROPRIATE

DELIBERATION OF PROPOSED STIPULATION(S), FINAL DECISION(S) AND ORDER(S)

MOTION: Mylinda Barisas-Matula moved, seconded by Brian Holmquist, to adopt the Findings of Fact, Conclusions of Order, Final Decision and Order and voluntary surrender of license in the disciplinary proceedings against **Lisa A. Halvorsen, OT (11 OTB 04 and 12 OTB 004)**. Motion carried unanimously.

ADJOURNMENT

MOTION: Deborah McKernan-Ace moved, seconded by Mylinda Barisas-Matula, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:24 p.m.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Karen Rude-Evans, Bureau Assistant		2) Date When Request Submitted: 3/21/2013	
		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 Therapists Affiliated Credentialing Board			
4) Meeting Date: April 10, 2013	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Election of Officers and Liaison Appointments	
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 type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Election of Officers and Liaisons for 2013. The current liaison appointments are: <input type="checkbox"/> Screening Panel – Dorothy Olson, David Cooper, and Brian Holmquist <input type="checkbox"/> Credentialing/Education Liaison(s) – Deborah McKernan-Ace and Mylinda Barisas-Matula <input type="checkbox"/> Division of Enforcement Monitoring Liaison – Mylinda Barisas-Matula <input type="checkbox"/> Examination Liaison(s)/Team – Brian Holmquist and Deborah McKernan-Ace <input type="checkbox"/> Legislative Liaison – Brian Holmquist <input type="checkbox"/> Impaired Provider Program Liaison – Gail Slaughter <input type="checkbox"/> Travel Liaison – Gail Slaughter <input type="checkbox"/> Digest Coordinator – no appointment made at this time <input type="checkbox"/> Practice Question Procedure – questions go to legal counsel then to the Board if necessary			
11) Authorization			
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.			

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Ashley Horton Department Monitor Division of Legal Services and Compliance		2) Date When Request Submitted: March 27, 2013 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 Therapists Affiliated Credentialing Board			
4) Meeting Date: April 10, 2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Monitoring Liaison Roles and Delegated Authorities	
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: Discuss the new model language and related delegated authorities.			
11) Authorization <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="width: 60%;">  Signature of person making this request </div> <div style="width: 35%; text-align: right;"> February 12, 2013 Date </div> </div> <hr/> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <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; align-items: flex-end;"> <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 Bureau Assistant prior to the start of a meeting.			

BOARD APPEARANCE REQUEST FORM

Board Name: Occupational Therapists Affiliated Credentialing Board

Board Meeting Date: April 10, 2013

Person Submitting Agenda Request: Ashley Horton

Respondent requesting an appearance: Ashley Horton

Mailing address:

Respondent's email address:

Respondent's telephone #:

Reason for Appearance: Monitoring Liaison Roles and Delegated Authorities

Board Services is responsible for scheduling and notifying person appearing before board. Send copy to Dept. Monitor

Is respondent represented by an attorney? No

Attorney's Mailing Address:

Attorney's Email Address:

Attorney's Phone Number:

Monitoring Liaison Roles and Proposed Delegated Authorities

Board Monitoring Liaison's Roles

Board Monitoring Liaison is a board designee working with department monitors to carry out the Board's orders. The roles of the Board Monitoring Liaison include but are not limited to:

1. Granting stay of suspension, as provided under the order, when Respondent demonstrates sufficient proof of compliance;
2. Removing stay of suspension, as provided under the order, when Respondent repeatedly or substantially violates the order (i.e. positive drug screen results, concerned work reports, etc.); and
3. Granting or denying approval, as provided under the order, when Respondent proposes continuing/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. to satisfy order requirements.

Proposed Delegated Authorities to Department Monitor and Board Monitoring Liaison

Department Monitor may draft and sign Board orders on behalf of the Board Monitoring Liaison **ONLY** under the following circumstances:

1. To remove the CE limitation on Respondent's license if he/she has completed the required, and approved, hours and the CE is sole condition of the limitation. A petition may be required for the CE limitation to be removed.
2. To suspend the license if Respondent does not pay costs and/or forfeiture or does not complete CE course(s) within the time specified by the Board order. When the licensee is in compliance with the order, the Department Monitor may remove the suspension. *see "Model Language" on next page
3. To grant a stay of suspension (*with permission from the Board Monitoring Liaison*).
4. To remove the stay of suspension (*with permission from the Board Monitoring Liaison*) if there are repeated or substantial violations of the Board order. The stay may be reinstated when the Board Liaison determines that Respondent is in compliance with the order.
5. To grant a temporary reduction in random drug screen frequency if Respondent is unemployed and is otherwise compliant with Board order (*with permission from the Board Monitoring Liaison*). The temporary reduction may be in effect until Respondent secures employment in the profession.
6. To grant a maximum 90-day extension to complete Board-ordered CE (*with permission from the Board Monitoring Liaison*).
7. To grant a maximum 90-day extension to pay proceeding costs (*with permission from the Board Monitoring Liaison*).

*This is the language used in stipulated Final Decision and Orders to inform respondent's that failure to pay the costs and/or complete the required continuing education may result in an immediate suspension of their credential:

Model Language

Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board, in its discretion, may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. *(If the order includes costs, forfeitures or continuing education add the next clause)* In the event Respondent fails to timely submit (payment of the costs or payment of the forfeiture as ordered or fails to comply with the ordered continuing education) as set forth above, the Respondent's license (#) may, in the discretion of the board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with (payment of the costs or forfeiture or completion of the continuing education).

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Karen Rude-Evans Bureau Assistant		2) Date When Request Submitted: 3/21/2013 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 Therapists Affiliated Credentialing Board			
4) Meeting Date: April 10, 2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Paperless Initiative	
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 type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Introduction to the Department's paperless initiative, use of DSPS laptops and introduction to SharePoint.			
11) Authorization			
Karen Rude-Evans		3/21/2013	
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			
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How to register for a username/password on <http://register.wisconsin.gov> .

In order to access the Board SharePoint site, Board Members must obtain a State of WI/DOA username/password from this site <http://register.wisconsin.gov> . Once registered, Board Members will be provided a DOA credential under the Wisconsin External (wiext) domain. This account is intended to provide users with access to multiple State of Wisconsin web applications, including the DSPS SharePoint site.

To Begin, use the 'Self Registration' link

DOA/Wisconsin Logon Management System

The DOA/Wisconsin Logon Management System allows authorized individuals to access many DOA Internet applications using a single ID and password. When access to information or services is restricted to protect your privacy or the privacy of others, you will be asked to provide your DOA/Wisconsin Logon and password to access DOA/Wisconsin Logon and password verifies your identity so that we can provide you with access to your information and services and prevent access by unauthorized individuals.

User Acceptance Agreement

Please note that only certain types of information will be stored in your user profile, as described in the [User Acceptance Agreement](#). Your user profile will never contain records such as driving history, tax information, unemployment compensation, vehicle registrations or prison records.

Sign Up for your DOA/Wisconsin Logon

Self Registration (Request a DOA/Wisconsin Logon and Password.)

Self Registration allows you to create your **personal** DOA/Wisconsin Logon. This is your key to doing secure business with DOA over the Internet.

Change / Update Your Information

Profile Management allows you to change your account information, e-mail address and other information.

Change Your Password

Password Management allows you to change your password.

Forgot Your Logon ID or Password?

Logon ID/Password Recovery allows you to recover a forgotten DOA/Wisconsin Logon and/or Password.

Updated February 6, 2009
DOA/Wisconsin Logon Management System
Direct Contact: [BISS@DOA](mailto:BISS@DOA.wisconsin.gov)
Content Contact: [BISS@DOA](mailto:BISS@DOA.wisconsin.gov)

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Not sure if you already have DOA/State of WI account?

Use the 'Forgot Your Logon ID or Password' link to check

After accepting the user agreement, complete the 'Account Creation' form.

Indicate 'SharePoint' under the section entitled, 'Systems You Will Access'

Account Creation

* Indicates Required Field

Profile Information

First Name *

Middle Initial *

Last Name *

Suffix

E-Mail *

Phone ext.

Mailing Address

Street Address

City

State/Province

Zip Code

Systems You Will Access

Use your mouse to highlight the system that you want to access.

Systems *

Account Information

Your Logon ID must be between 5-20 characters and **CAN** be a combination of letters and numbers. Your Logon ID must not contain spaces or special characters.

Logon ID *

Your Password must be 7-20 characters long and **MUST** contain a combination of letters and either numbers or special characters (except the @ ? / signs). Passwords are case sensitive. Your Password cannot contain the Logon ID.

Password *

Re-enter Password *

Logon ID/Password Recovery

Enter a question and answer for use if you forget your DOA/Wisconsin Logon ID or Password. Your Secret Question and Secret Answer cannot contain your password.

Secret Question *

Secret Answer *

Verification

This step helps prevent automated registrations.
If you cannot see the number below click here.

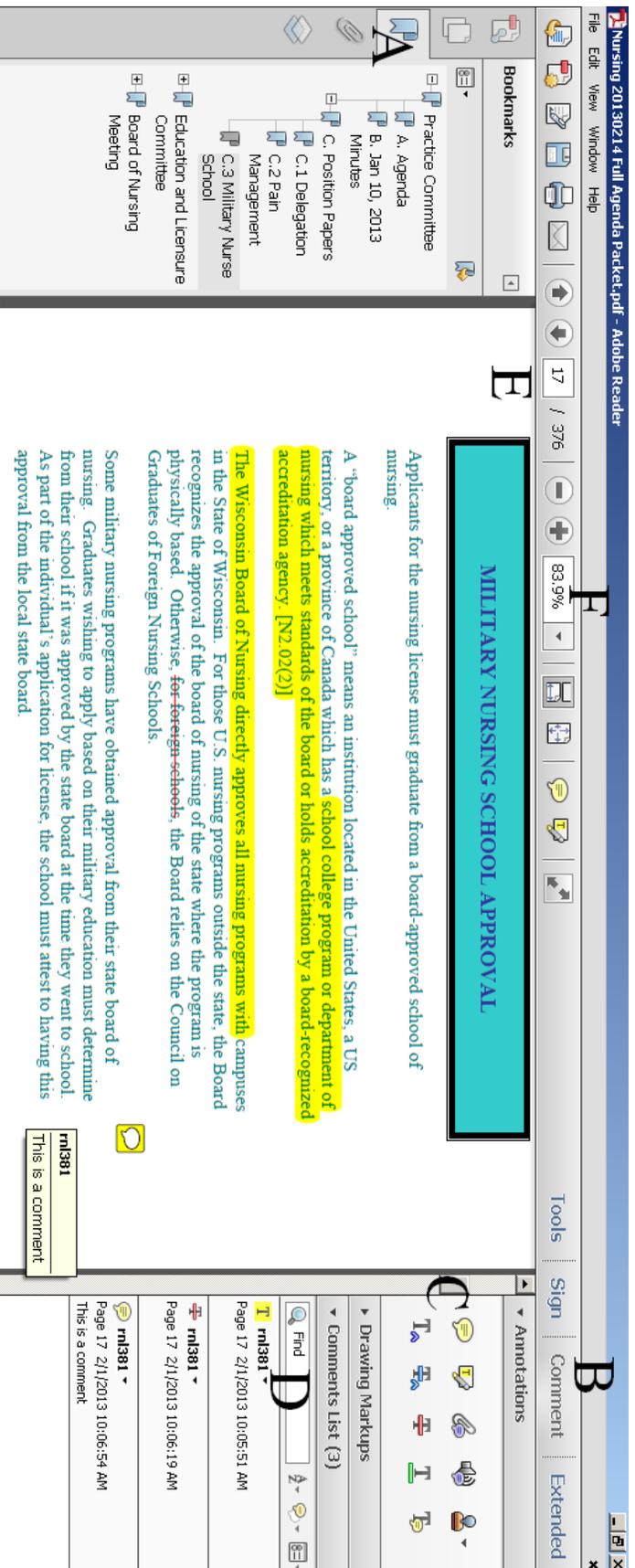
Please enter the number as it is shown in the box to the left.

*

Please use a login ID of your first initial followed by your middle initial followed by your last name, as in the example to the left.

Remember your logon ID, as you will need to provide that to DSPS staff in order for you to receive proper access rights.

Once you have been granted permission to access the Board's website, you should receive an automated 'Welcome to SharePoint' email with a link to the site.



Above is an example of an agenda packet page, with some features you can access through Adobe Reader.

A: Bookmarks – When the Bureau Assistant creates the Agenda Packet, it is possible to place in bookmarks for quick reference during meetings. You can expand and minimize categories to better enable you to jump from section to section of your agenda here.

B: Comment – On specially designated .pdf files, it is possible for Adobe Reader to be given comment privileges. This allows a Board member to make comments on documents, as well as edit, highlight, or insert text in suitable files. Please note, if the file is a scanned copy, it is likely that the highlight and text editing features will not be usable. The comment feature will still work in such an issue.

C: Annotations & Drawing Markups – These are the different options you can use to mark up your document for your reference. If you mouse over an option, it will give a brief description of what it can do for you. Feel free to experiment and find out what works best for you!

D: Comments List – Quickly jump between your comments by selecting them in this list. Never again will you miss out on a note during a discussion with this handy tool.

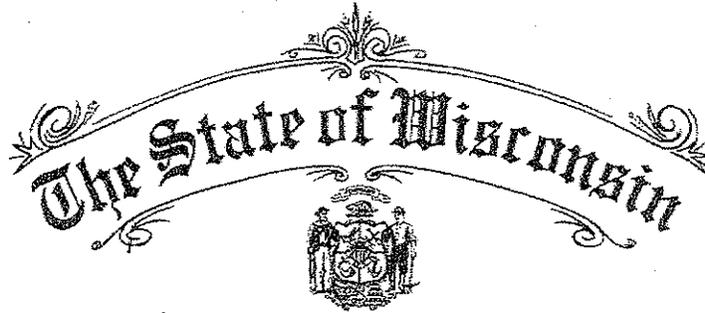
E: Page List – No more rifling through papers in order to track down that page someone mentioned! With this handy bar, you can simply type in the page you are looking for, hit enter, and Adobe Reader will take you directly to the page.

F: Zoom – Having trouble reading something? You can zoom in and out on a document with this bar. The plus and minus signs to the left can be used to make quick adjustments as well.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Office of the Governor		2) Date When Request Submitted: <div style="border: 1px solid black; padding: 2px; font-size: small;"> 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 </div>	
3) Name of Board, Committee, Council, Sections: Occupational Therapists Affiliated Credentialing Board			
4) Meeting Date: April 10, 2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Executive Order #61	
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? 	9) Name of Case Advisor(s), if required: 	
10) Describe the issue and action that should be addressed: To comply with Executive Order #61, the Board is being asked to review its rules to identify rules that unnecessarily burden small businesses to conduct their affairs and expand. The following options are suggested for undertaking this assignment, with a report back to the Board at its next meeting: <ol style="list-style-type: none"> 1. Appoint a member of the Board to review the rules; 2. Divide the rules among Board members for review; 3. All Board members could review the rules individually. If the Board decides at the next meeting that there is a need to write rules, the next step would be to draft a scope statement.			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)		Date	



OFFICE OF THE GOVERNOR

EXECUTIVE ORDER # 61

Relating to Job Creation and Small Business Expansion

WHEREAS, creating jobs and growing our state's economy is dependent on a vibrant small business sector; and

WHEREAS, small businesses have generated 64% of net new jobs over the past fifteen years and employ over half of all private sector employees; and

WHEREAS, according to recent U.S. Census data, 86% of Wisconsin business employ fewer than 20 workers, and 74% have ten workers or less; and

WHEREAS, small businesses spend 80% more per worker than large employers to comply with government regulations and, according to a recent National Federation of Independent Business survey of Wisconsin employers, 91% said it was impossible to know about, comply with, and understand all of government's regulations; and

WHEREAS, according to the U.S. Small Business Administration, complying with government regulations costs small businesses \$10,585 per worker, which discourages investment and hiring by small businesses; and

WHEREAS, government regulations are regularly cited as one of the top three concerns for small business growth, according to NFIB's Small Business Optimism Index; and

WHEREAS, 2011 Wisconsin Act 46 strengthened Wisconsin's Small Business Regulatory Review Board (Board) empowering small business owners and giving them the ability to judge the economic impact of government regulation; and

WHEREAS, 2011 Wisconsin Act 46 requires state agencies to submit any rule with an economic impact to the Board for review and allows the Board to suggest changes to the agency that will improve compliance and reduce the rule's burden on small businesses; and

WHEREAS, pursuant to Wis. Stat. § 227.30, the Board has the authority to review rules and guidelines of any agency to determine whether any of those rules or guidelines place an unnecessary burden on the ability of small businesses to conduct their affairs; and

WHEREAS, state agencies and the Board should not only be reviewing new rules but collaborating to reform existing rules that hinder job creation and small business expansion and that this effort would help further the state's goal of creating 250,000 jobs by 2015.

NOW THEREFORE, I, SCOTT WALKER, Governor of the State of Wisconsin, by the authority vested in me by the Constitution and laws of this State, specifically Wis. Stat. § 227.10(2m), do hereby:

1. Require all state agencies to review 2011 Wisconsin Act 46 to ensure they are in compliance, ready to assist small business owners, and properly submitting any proposed rules with an economic impact to the Board;
2. Require all state agencies to cooperate with the Board to identify existing rules hindering job creation and small business growth;

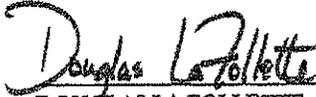
3. Require all state agencies to work with the Board to recommend changes to these rules that will both reduce their burden on job creators while continuing to comply with the intent of the statutes that created them;
4. Require all state agencies to work with the Board to identify strategies that will increase compliance with existing rules;
5. Request that the Board engage small business owners and their representative organizations to gather input on any rules hindering job growth;
6. Request that the Board provide a report and analysis of these rules, in a manner similar to Wis. Stat. § 227.30(1), to the Governor's Office of Regulatory Compliance and the agency with the authority to amend the rules, which details the rules they have identified for modification.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done in the City of Eau Claire this twenty-second day of February, in the year two thousand twelve.


SCOTT WALKER
Governor

By the Governor:


DOUGLAS LA FOLLETTE
Secretary of State

notice, under ch. 985, of the hearing in the official state newspaper and give any other notice which the committee directs. The hearing shall be conducted in accordance with s. 227.18 and shall be held not more than 60 days after receipt of notice of the requirement.

History: 1985 a. 182 ss. 1, 3, 50; 1987 a. 186; 2005 a. 249.

Rule suspension under sub. (2) (d) does not violate the separation of powers doctrine. *Martinez v. DILHR*, 165 Wis. 2d 687, 478 N.W.2d 582 (1992).

A collective bargaining agreement between the regents and the teaching assistants association is not subject to review by the committee. 59 Atty. Gen. 200.

In giving notice of public hearings held under sub. (2), the committee should concurrently employ the various forms of notice available that best fit the particular circumstances. 62 Atty. Gen. 299.

If an administrative rule is properly adopted and is within the power of the legislature to delegate there is no material difference between it and a law. No law, including a valid rule can be revoked by a joint resolution of the legislature as such a resolution deprives the executive its power to veto an act of the legislature. 63 Atty. Gen. 159.

Legislative committee review of administrative rules in Wisconsin. Bunn and Gallagher. 1977 WLR 935.

227.27 Construction of administrative rules.

- (1) In construing rules, ss. 990.001, 990.01, 990.03 (1), (2) and (4), 990.04 and 990.06 apply in the same manner in which they apply to statutes, except that ss. 990.001 and 990.01 do not apply if the construction would produce a result that is inconsistent with the manifest intent of the agency.
- (2) The code shall be prima facie evidence in all courts and proceedings as provided by s. 889.01, but this does not preclude reference to or, in case of a discrepancy, control over a rule filed with the legislative reference bureau or the secretary of state, and the certified copy of a rule shall also and in the same degree be prima facie evidence in all courts and proceedings.

History: 1983 a. 544; 1985 a. 182 ss. 22, 55 (2), (3); Stats. 1985 s. 227.27; 2005 a. 249; 2007 a. 20.

227.30 Review of administrative rules or guidelines.

- (1) The small business regulatory review board may review the rules and guidelines of any agency to determine whether any of those rules or guidelines place an unnecessary burden on the ability of small businesses, as defined in s. 227.114 (1), to conduct their affairs. If the board determines that a rule or guideline places an unnecessary burden on the ability of a small business to conduct its affairs, the board shall submit a report and recommendations regarding the rule or guideline to the joint committee for review of administrative rules and to the agency.
- (2) When reviewing the report, the joint committee for review of administrative rules shall consider all of the following:
 - (a) The continued need for the rule or guideline.
 - (b) The nature of the complaints and comments received from the public regarding the rule or guideline.
 - (c) The complexity of the rule or guideline.

- (d) The extent to which the rule or guideline overlaps, duplicates, or conflicts with federal regulations, other state rules, or local ordinances.
 - (e) The length of time since the rule or guideline has been evaluated.
 - (f) The degree to which technology, economic conditions, or other factors have changed in the subject area affected by the rule or guideline since the rule or guideline was promulgated.
- (3) The joint committee for review of administrative rules may refer the report regarding the rule or guideline to the presiding officer of each house of the legislature for referral to a committee under s. 227.19 (2) or may review the rule or guideline as provided under s. 227.26.

History: 2003 a. 145; 2005 a. 249.

SUBCHAPTER III

ADMINISTRATIVE ACTIONS AND JUDICIAL REVIEW

Cross-reference: See also ch. NR 2, Wis. adm. code.

227.40 Declaratory judgment proceedings.

- (1) Except as provided in sub. (2), the exclusive means of judicial review of the validity of a rule shall be an action for declaratory judgment as to the validity of the rule brought in the circuit court for the county where the party asserting the invalidity of the rule resides or has its principal place of business or, if that party is a nonresident or does not have its principal place of business in this state, in the circuit court for the county where the dispute arose. The officer or other agency whose rule is involved shall be the party defendant. The summons in the action shall be served as provided in s. 801.11 (3) and by delivering a copy to that officer or, if the agency is composed of more than one person, to the secretary or clerk of the agency or to any member of the agency. The court shall render a declaratory judgment in the action only when it appears from the complaint and the supporting evidence that the rule or its threatened application interferes with or impairs, or threatens to interfere with or impair, the legal rights and privileges of the plaintiff. A declaratory judgment may be rendered whether or not the plaintiff has first requested the agency to pass upon the validity of the rule in question.
- (2) The validity of a rule may be determined in any of the following judicial proceedings when material therein:
 - (a) Any civil proceeding by the state or any officer or agency thereof to enforce a statute or to recover thereunder, provided such proceeding is not based upon a matter as to which the opposing party is accorded an administrative review or a judicial review by other provisions of the statutes and such opposing party has failed to exercise such right to review so accorded;
 - (b) Criminal prosecutions;
 - (c) Proceedings or prosecutions for violations of county or municipal ordinances;
 - (d) Habeas corpus proceedings relating to criminal prosecution;

**227.10 Statements of policy and interpretations of law;
discrimination prohibited.**

- (1) Each agency shall promulgate as a rule each statement of general policy and each interpretation of a statute which it specifically adopts to govern its enforcement or administration of that statute. A statement of policy or an interpretation of a statute made in the decision of a contested case, in a private letter ruling under s. 73.035 or in an agency decision upon or disposition of a particular matter as applied to a specific set of facts does not render it a rule or constitute specific adoption of a rule and is not required to be promulgated as a rule.
- (2) No agency may promulgate a rule which conflicts with state law.
- (2m) No agency may implement or enforce any standard, requirement, or threshold, including as a term or condition of any license issued by the agency, unless that standard, requirement, or threshold is explicitly required or explicitly permitted by statute or by a rule that has been promulgated in accordance with this subchapter. The governor, by executive order, may prescribe guidelines to ensure that rules are promulgated in compliance with this subchapter.

227.114 Rule making; considerations for small business.

227.114(2)

- (1) In this section, "small business" means a business entity, including its affiliates, which is independently owned and operated and not dominant in its field, and which employs 25 or fewer full-time employees or which has gross annual sales of less than \$5,000,000.
- (2) When an agency proposes or revises a rule that may have an effect on small businesses, the agency shall consider each of the following methods for reducing the impact of the rule on small businesses:
 - (a) The establishment of less stringent compliance or reporting requirements for small businesses.
 - (b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.
 - (c) The consolidation or simplification of compliance or reporting requirements for small businesses.
 - (d) The establishment of performance standards for small businesses to replace design or operational standards required in the rule.
 - (e) The exemption of small businesses from any or all requirements of the rule.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Tom Ryan		2) Date When Request Submitted: 3/26/2013	
		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 Therapists Affiliated Credentialing Board			
4) Meeting Date: April 10, 2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Executive Order 50 - Review of Position Statements/FAQs	
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?	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: <p>All Boards are reviewing position statements, position papers and other website content to ensure the content is not outdated and are in compliance with statutes, rules, and Executive Order 50, relating to guidelines for the promulgation of administrative rules. The following options are suggested for undertaking this review, with a report back to the Board at the next meeting:</p> <ol style="list-style-type: none"> 1. Appoint a member of the Board to review the position statements and position papers; 2. Divide the position statements and position papers; 3. All Board members could review the statements and papers individually. 			

**Positions Statements Related to Occupational Therapy
Issued by the Occupational Therapists Affiliated Credentialing Board**

WHAT IS THE MEANING OF “SPECIFIC MEDICAL CONDITIONS” AS USED IN S. OT 4.03(2)(A), WIS. ADMIN. CODE?

The phrase “specific medical conditions” is not defined in either the statutes or the administrative rules that govern the practice of occupational therapy.

DOES THE DEFINITION OF “PHYSICIAN” INCLUDE A DOCTOR OF OSTEOPATHY AS USED IN S. OT 4.03(2)(A), WIS. ADMIN. CODE?

Section 448.01 of the Wisconsin Statutes defines the term “physician” and includes an individual who possesses the degree of doctor of osteopathy. Accordingly, doctors of osteopathy are considered to be physicians as used in s. OT 4.03(2)(a), Wis. Admin. Code.

IS THERE A DIFFERENCE BETWEEN A VERBAL ORDER AND AN ORAL REFERRAL?

There is no difference between a verbal order and an oral referral.

IS THERE A DIFFERENCE BETWEEN A “REFERRAL” AND A “PHYSICIAN ORDER” AS USED IN S. OT 4.03(2)(D)?

“Referral” and “physician order” are defined in s. OT 1.02(16), Wis. Admin. Code, and mean the practice of requesting and, where applicable, ordering occupational therapy services and delegating the responsibility for evaluation and treatment to an occupational therapist. Accordingly, the two may be used interchangeably.

WHAT TYPES OF OCCUPATIONAL THERAPY SERVICES MAY BE PROVIDED UNDER A “REFERRAL” AS OPPOSED TO A “PHYSICIAN ORDER”?

Because the two terms may be used interchangeably, there is no difference in the type of occupation services that can be provided under a referral versus a physician's order.

UNDER S. OT 4.04(4), WIS. ADMIN. CODE, MUST THE SUPERVISING OCCUPATIONAL THERAPIST MEET SIMULTANEOUSLY WITH THE OCCUPATIONAL THERAPY ASSISTANT AND THE CLIENT OR MAY THESE REQUIRED MEETINGS BE HELD SEPARATELY?

Simultaneous meetings are permissible. Meetings may be held separately, that is, one meeting between the Occupational Therapist and the Occupational Therapy Assistant, and one with the Occupational Therapist and the client. These meetings do not need to be held at or during a treatment session. On-premises meetings are intended to review the progress and effectiveness of treatment.

WHAT TYPE OF DOCUMENTATION SHOULD LICENSEES MAINTAIN AS PROOF OF HAVING COMPLETED THE REQUIRED CONTINUING EDUCATION?

Examples of satisfactory proof of having completed the required continuing education include, but are not limited to, certificates of attendance, proof of payment, agendas, etc.

WHAT ROLE MAY A CERTIFIED OCCUPATIONAL THERAPY ASSISTANT (COTA) PLAY IN SCREENING OR EVALUATING PATIENTS FOR PHYSICAL FUNCTION?

Section OT 4.03 (1) of the Wisconsin Administrative Code provides that a COTA may collaborate with an OT in screening or evaluating patients for physical function.

IS IT WITHIN THE SCOPE OF PRACTICE FOR AN OCCUPATIONAL THERAPIST TO PROVIDE A MEDICATION CONTAINER TO A CLIENT AND TO INSTRUCT THE CLIENT ABOUT HOW TO USE IT?

Providing a medication container and training a client in how to use it is a non-skilled intervention and therefore falls under the scope of practice as found in s. OT 4.02 (2) (h), Wis. Admin. Code.

IS IT WITHIN THE SCOPE OF PRACTICE FOR AN OCCUPATIONAL THERAPIST TO CONDUCT AN EVALUATION OF SOMEONE WHO HAS LOW VISION AND TO PROVIDE APPROPRIATE TREATMENT OPTIONS FOR THAT PERSON?

Once a person has been diagnosed as having low vision, an occupational therapist may conduct an evaluation to determine what type of deficits exist for that person and may assist in treating the problem by recommending and implementing appropriate accommodations. See ss. OT 4.02 (1) (a-d); 4.02 (2) (a) and (e); and 4.03 (2) (a), Wis. Admin. Code.

MAY AN OCCUPATIONAL THERAPIST BE INVOLVED IN DETERMINING WHETHER THE NEED FOR RESTRAINTS IS AN APPROPRIATE OPTION FOR PATIENTS IN A SKILLED NURSING FACILITY?

While an occupational therapist is not the ultimate decision maker in determining whether the use of restraints should be used on a patient in a skilled nursing facility, he or she may participate and provide input during the patient evaluation process. Typically, the physician, in collaboration with other allied health professionals (including OTs), makes the decision as to the use of restraints. See ss. OT 4.02 (2) (e) and 4.03 (2) (a), Wis. Admin. Code.

MAY AN OCCUPATIONAL THERAPIST WHO HAS OBTAINED CERTIFICATION FOR HAND THERAPY UTILIZE IT AS A PHYSICAL AGENT MODALITY?

Under s. OT 4.02 (2) (f), Wis. Admin. Code, an occupational therapist may engage in a physical agent modality provided he or she is an experienced therapist with documented

evidence of theoretical background, technical skill, and competence. By obtaining special training, for instance, through a hand certification program, an occupational therapist may meet the theoretical piece; however, the occupational therapist must have the required technical skill and experience before engaging in the modality.

IS A PHYSICIAN REFERRAL REQUIRED BEFORE AN OCCUPATIONAL THERAPIST MAY ENGAGE IN CRANIOSACRAL TREATMENT?

Under ss. OT 4.03 (2) (a) and (c), Wis. Admin. Code, craniosacral treatment may be provided by an occupational therapist with or without a physician referral. Regardless of whether or not there is a referral, an occupational therapist must be properly trained in this treatment modality before utilizing it.

IS A PHYSICIAN ORDER REQUIRED BEFORE AN OCCUPATIONAL THERAPIST CAN UTILIZE MYOFACIAL RELEASE FOR THE TREATMENT OF TMJ?

TMJ is a specific, medically diagnosed condition and is appropriately treated with myofacial release. Referrals for treatment may be made by physicians and chiropractors to occupational therapists, but self referrals would not be appropriate. See ss. OT 4.03 (2) (a) and (b), Wis. Admin. Code.

DO REFERRALS NEED A PHYSICIAN'S SIGNATURE?

Under s. OT 4.03 (2) (b), Wis. Admin. Code, referrals are not required to have a physician signature. However, under s. OT 4.03 (2) (d), physician orders must be in writing.

MAY AN OCCUPATIONAL THERAPIST ACCEPT REFERRALS FROM PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS?

Yes. Occupational therapists may accept referrals from physician assistants and nurse practitioners under s. OT 4.03 (2) (c), Wis. Admin. Code.

IS IT ACCEPTABLE FOR A NURSE PRACTITIONER TO PROVIDE A REFERRAL OR AN ORDER FOR OCCUPATIONAL THERAPY?

Yes, under s. OT 4.03 (2) (b), Wis. Admin. Code, referrals may be accepted from advanced practice nurses.

IF AN OPTOMETRIST MAKES A REFERRAL FOR OCCUPATIONAL THERAPY, DOES THERE ALSO NEED TO BE A PHYSICIAN ORDER?

Under s. OT 4.03 (2) (b), Wis. Admin. Code, referrals for occupational therapy may be accepted from optometrists.

DO ALL CLIENTS HAVE TO BE REFERRED TO OCCUPATIONAL THERAPY IN ORDER TO RECEIVE SERVICES?

No, under ss. OT 4.03 (c) and (e), Wis. Admin. Code, there are circumstances under which a referral is not necessary in order to receive occupational therapy

MAY OCCUPATIONAL THERAPY ASSISTANTS (OTA) COMPLETE RE-EVALUATIONS AND DISCHARGE EVALUATIONS?

While an occupational therapy assistant does not have the independent authority to complete either a re-evaluation or a discharge evaluation, they may be done in collaboration with an occupational therapist, under ss. OT 4.03 (4) (a) and (5) (a), Wis. Admin. Code.

WHAT CONSTITUTES OCCUPATIONAL THERAPY ASSISTANT ENTRY-LEVEL COMPETENCIES?

Occupational therapy assistant entry-level competencies will vary based on the individual OTA's abilities and the various occupational therapy practice settings. Under s. OT 4.04, Wis. Admin. Code, supervisors will be in the best position to determine when, for instance, close supervision is no longer required for rehabilitation, neonate, early intervention, and school system services for entry-level OTAs.

HOW LONG DO ENTRY-LEVEL OCCUPATIONAL THERAPY ASSISTANTS REQUIRE CLOSE SUPERVISION

Occupational therapy assistant entry-level competencies will vary based on the individual OTA's abilities and the various occupational therapy practice settings. A supervisor is likely in the best position to assess the competency of an entry-level OTA. Once competency has been achieved, close supervision would no longer be required under s. OT 4.04 (5), Wis. Admin. Code.

CAN AN OCCUPATIONAL THERAPY ASSISTANT ENGAGE IN CARDIAC PROGRAMS IF THERE IS ON-SITE SUPERVISION AVAILABLE?

Yes, provided the OTA has demonstrated competency in this practice area, he may engage in cardiac programs. See ss. OT 4.03 (5) (a) and 4.04, Wis. Admin. Code.

CAN AN OCCUPATIONAL THERAPY ASSISTANT DO PRE AND POST-JOINT REPLACEMENT TREATMENT?

Yes, provided the OTA has demonstrated his competency in this practice area, she may engage in pre and post-joint replacement treatment. See ss. OT 4.03 (5) (a) and 4.04, Wis. Admin. Code.

HOW DOES SUPERVISION OF OCCUPATIONAL THERAPY ASSISTANTS IN SCHOOLS DIFFER FROM OTHER SETTINGS?

There is no substantive difference between the supervision that occurs in schools versus other settings. See s. OT 4.04 (5), Wis. Admin. Code. However, the Department of Public

Instruction also has provisions that apply to occupational therapists and occupational therapy assistants. For further information on that topic, practitioners should consult with the Department of Public Instruction.

CAN AN OCCUPATIONAL THERAPY ASSISTANT TAKE A PHYSICIAN ORDER UNDER DIRECT SUPERVISION?

Wis. Stat. Admin. Code § OT 4.04(1) directs that the occupational therapist is responsible for delivery of occupational therapy services, including those provided by the occupational therapy assistant. The occupational therapist must determine which occupational therapy services may be delegated to someone other than the occupational therapist. Therefore, An OTA may accept an order from a physician, but must refer the order to the supervising occupational therapist for implementation.

ARE THERE ANY GUIDELINES FOR CO-SIGNING?

Co-signature references can be found in ss. OT 4.04 (3) and (4), Wis. Admin. Code.

IS THERE A RECOMMENDED FORMAT FOR DOCUMENTING SUPERVISION?

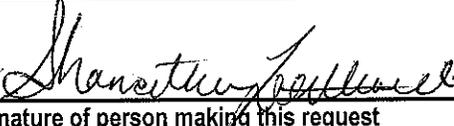
No, other than the requirements must include the items such as name, status, and plan, as found in s. OT 4.04 (4), Wis. Admin. Code.

IS A SUPERVISING OCCUPATIONAL THERAPIST REQUIRED TO BE PRESENT WHEN AN OCCUPATIONAL THERAPY ASSISTANT PROVIDES IN-HOME CARE?

The objective of on-premises meetings is review of the progress and effectiveness of treatment. The supervising occupational therapist is responsible for the occupational therapy services provided, including those provided by an occupational therapy assistant. The supervising occupational therapist is therefore responsible for determining the level of supervision necessary to avoid unacceptable risk of harm to the patient.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Shawn Leatherwood		2) Date When Request Submitted: 02/15/2013	
<p align="center">Items will be considered late if submitted after 4:30 p.m. and less than:</p> <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 Therapists Affiliated Credentialing Board			
4) Meeting Date: April 10, 2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Proposed Rules concerning Practice Standards OT 1, 2, 3, 4 & 5	
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 type="checkbox"/> Yes (Fill out Board Appearance Request) <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: The Board will review and discuss the proposed rule draft, provide feedback for revisions, and approve language in preparation for filing with the Clearinghouse.			
11) Authorization			
 Signature of person making this request		2-15-2013 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.			

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)

PROPOSED ORDER

An order of the Occupational Therapists Affiliated Credentialing Board to *

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 provides, “[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.” The proposed rule seeks to modernize practice standards captured in the current rules. Therefore, the Board is authorized both generally and specifically to promulgate these proposed rules.

Related statute or rule:

Wis. Admin. Code chs. 1, 2, 3 and 4

Plain language analysis:

The Occupational Therapist Affiliated Board reviewed its rules and determined that the rules were outdated. The Board identified several 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). The AOTA changed the definition of Occupational Therapy Practice for the AOTA Model Practice Act in April of 2011. The Board seeks to incorporate some of the language from the AOTA Model Practice Act within the proposed rules. Ultimately, the Board seeks to institute changes that will update the current code language with current practices within the profession.

SECTION 1. defines areas of occupation occupational performance skills, occupational performance contexts and environment as well as other terms.

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. deletes outdated language found in 2.03 (2) (f), (g), (h) (i) and (j).

SECTION 4. amends wording of the provision concerning graduation from an occupational therapy school.

SECTION 5. repeals language regarding expiration of temporary licensure.

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

SECTION 7. amends language occupational services to occupational interventions.

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 §1315.90 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 Act 368 of 1978 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 as the current Wisconsin rule does.

Minnesota: Minnesota statutes govern the scope of practice for Occupational Therapists in the state. Minn. Stat. §§ 148.601 -148.6450 The provisions cover such topics as physical agent modalities and supervision of occupational therapy assistants.

Summary of factual data and analytical methodologies:

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

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 Greg.Gasper@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; email at Shancethea.Leatherwood*@wisconsin.gov.

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.Leatherwood*@wisconsin.gov. Comments must be received on or before * 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, required actions and performance of skills body functions and body structures.

(2) "Areas of occupation" means the functional abilities that occupational therapy addresses in the areas of activities of daily living such as instrumental activities of daily living , rest and sleep, educational activities , work and vocational activities, play leisure and social participation.

(3) "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.

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

(5) "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, skin and related structures.

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

(7) "Client factors" means values, beliefs, and spirituality, body functions, and body structures that reside within the client and may affect performance in areas of occupation.

(8) "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.

(9) "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.

(10) "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.

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

(12) "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.

(13) "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.

(14) "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.

(15) "Occupational 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.

(16) "Occupational 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, (customs, beliefs, behaviors); temporal (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; social (relationships and expectations of persons groups and systems.

(17) "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.

(18) "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.

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

(20) "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.

(21) "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.

(22) "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.

(23) "Screening" means the review of occupational performance skills 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.

(24) "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.

(25) "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) (f), (g), (h), and (i) are repealed.

SECTION 4. 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 5. OT 2.07 (5) is repealed.

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

OT 3.02 Registration required; method of registration. Each licensee shall register biennially with the board. Prior to ~~November 1~~ 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 1~~ June 1 of odd numbered years 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 4.02 (2) is amended to read:

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

SECTION 8. 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 or Secretary)
(board or department name)