



**VIRTUAL/TELECONFERENCE
OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD**

Virtual, 4822 Madison Yards Way, Madison

Contact: Valerie Payne (608) 266-2112

March 9, 2021

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

9:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-3)**
- B. Approval of Minutes of November 17, 2020 (4-6)**
- C. Reminders: Conflicts of Interest, Scheduling Concerns
- D. 9:30 A.M. PUBLIC HEARING: CR 20-002 – OT 2, Reciprocal Credentials for Service Members, Former Service Members, and Their Spouses (7-15)**
 - 1) Review and Respond to Public Hearing Comments and Clearinghouse Report
- E. Administrative Matters – Discussion and Consideration**
 - 1) Department, Staff and Board Updates
 - 2) Annual Policy Review **(16)**
 - 3) Election of Officers, Appointment of Liaisons and Alternates, Delegation of Authorities **(17-25)**
 - 4) Board Members – Term Expiration Dates
 - a. Black, Teresa L. – 7/1/2023
 - b. Erickson, Terry – 7/1/2023
 - c. Hanson, Randi – 7/1/2023
 - d. O’Brien, Laura M. – 7/1/2019
 - e. Summers, Amy K. – 7/1/2018
 - 5) Wis. Stat. s. 15.085(3)(b) – Biannual Meeting with the Medical Examining Board
- F. Legislative and Policy Matters – Discussion and Consideration
- G. Administrative Rule Matters – Discussion and Consideration (26)**
 - 1) Preliminary Rule Draft – OT 2 – Licensure Requirements **(27-29)**
 - 2) Scope Statement – OT 3 – Continuing Education **(30-31)**
 - 3) Pending and Possible Rulemaking Projects
 - a. Board Oral Examinations Under OT 2 **(32-33)**

H. Wisconsin Occupational Therapy Association (WOTA) Continuing Education – Discussion and Consideration

I. AOTA/NBCOT Occupational Therapy Licensure Compact Initiative – Discussion and Consideration

J. COVID-19 – Discussion and Consideration

K. Discussion and Consideration of Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Administrative Matters
- 3) Election of Officers
- 4) Appointment of Liaisons and Alternates
- 5) Delegation of Authorities
- 6) Education and Examination Matters
- 7) Credentialing Matters
- 8) Practice Matters
- 9) Legislative and Policy Matters
- 10) Administrative Rule Matters
- 11) Liaison Reports
- 12) Board Liaison Training and Appointment of Mentors
- 13) Informational Items
- 14) Division of Legal Services and Compliance (DLSC) Matters
- 15) Presentations of Petitions for Summary Suspension
- 16) Petitions for Designation of Hearing Examiner
- 17) Presentation of Stipulations, Final Decisions and Orders
- 18) Presentation of Proposed Final Decisions and Orders
- 19) Presentation of Interim Orders
- 20) Petitions for Re-Hearing
- 21) Petitions for Assessments
- 22) Petitions to Vacate Orders
- 23) Requests for Disciplinary Proceeding Presentations
- 24) Motions
- 25) Petitions
- 26) Appearances from Requests Received or Renewed
- 27) Speaking Engagements, Travel, or Public Relation Requests, and Reports

L. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), and 448.02(8), Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

M. Open Cases

N. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters

- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Order
- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training
- 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

O. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

P. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

Q. Open Session Items Noticed Above Not Completed in the Initial Open Session

R. Delegation of Ratification of Examination Results and Ratification of Licenses and Certificates

ADJOURNMENT

ORAL EXAMINATION OF CANDIDATES FOR LICENSURE

VIRTUAL/TELECONFERENCE

10:00 A.M. OR IMMEDIATELY FOLLOWING FULL BOARD MEETING

CLOSED SESSION – Reviewing Applications and Conducting Oral Examinations of **Zero (0)** (at the time of agenda publication) Candidate for Licensure and Any Additional Examinations
 Added After Agenda Preparation – Laura O’Brien & Teresa Black

NEXT DATE: JUNE 8, 2021

 MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board’s agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112, or the Meeting Staff at 608-266-5439.

**VIRTUAL/TELECONFERENCE
OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD
MEETING MINUTES
NOVEMBER 17, 2020**

PRESENT: Teresa Black, Terry Erickson, Randi Hanson, Laura O'Brien

EXCUSED: Amy Summers

STAFF: Valerie Payne, Executive Director; Yolanda McGowan, Legal Counsel; Dale Kleven, Rules Coordinator; Megan Glaeser, Bureau Assistant; and other Department staff

CALL TO ORDER

Laura O'Brien, Chairperson, called the meeting to order at 9:33 a.m. A quorum was confirmed with four (4) board members present.

ADOPTION OF AGENDA

Amendments to the Agenda

- Open Session: Under item "I. COVID-19 – Discussion and Consideration" **ADD:**
 - Emergency Order 2

MOTION: Terry Erickson moved, seconded by Teresa Black, to adopt the Agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Teresa Black moved, seconded by Randi Hanson, to approve the Minutes of September 15, 2020 as published. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Proposals for OT 1 to 6 - Telehealth

MOTION: Terry Erickson moved, seconded by Randi Hanson, to authorize Teresa Black to approve the preliminary rule draft of OT 1 to 6, relating to telehealth, for posting of economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

Administrative Rules Reporting Requirement Under 2017 Wisconsin Act 108

Scope Statement – OT 2 – Licensure Requirements

MOTION: Teresa Black moved, seconded by Randi Hanson, to approve the Scope Statement revising OT 2, relating to licensure requirements, for submission to the Department of Administration and Governor's Office and for publication. Additionally, the Board authorizes the Chairperson to approve the Scope Statement for implementation no less than 10 days after publication. If the Board

is directed to hold a preliminary public hearing on the Scope Statement, the Chairperson is authorized to approve the required notice of hearing. Motion carried unanimously.

Pending or Possible Rulemaking Projects

OT 3, Relating to Continuing Education

MOTION: Randi Hanson moved, seconded by Terry Erickson, to request DSPS staff draft a Scope Statement for OT 3 relating to continuing education, and to designate Laura O'Brien to advise DSPS staff. Motion carried unanimously.

CLOSED SESSION

MOTION: Terry Erickson moved, seconded by Randi Hanson, to 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 § 448.02(8), Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.). Laura O'Brien, Chairperson, read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Teresa Black-yes; Terry Erickson-yes; Randi Hanson -yes; and Laura O'Brien-yes. Motion carried unanimously.

The Board convened into Closed Session at 11:08 a.m.

DELIBERATION ON DIVISION OF LEGAL SERVICES AND COMPLIANCE MATTERS

Stipulations, Final Decisions and Orders

19 OTB 005 – Aaron D. Weber, O.T.

MOTION: Terry Erickson moved, seconded by Randi Hanson, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Aaron D. Weber, O.T., DLSC Case Number 19 OTB 005. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Terry Erickson moved, seconded by Teresa Black, to reconvene in Open Session. Motion carried unanimously.

The Board reconvened to Open Session at 11:12 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MOTION: Teresa Black moved, seconded by Randi Hanson, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the closed session motions stand for the purposes of the affirmation vote.)

DELEGATION OF RATIFICATION OF LICENSES AND CERTIFICATES

MOTION: Terry Erickson moved, seconded by Randi Hanson, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: Teresa Black moved, seconded by Randi Hanson, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:14 a.m.

DRAFT

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Dale Kleven Administrative Rules Coordinator		2) Date When Request Submitted: 2/25/21 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Occupational Therapists Affiliated Credentialing Board			
4) Meeting Date: 3/9/21	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 9:30 A.M. Public Hearing: CR 21-002 – OT 2, Reciprocal Credentials for Service Members, Former Service Members, and Their Spouses 1. Review and Respond to Public Comments and Clearinghouse Report	
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:			
11) <i>Dale Kleven</i> Signature of person making this request		Authorization <i>February 25, 2021</i> 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 **repeal** OT 2.06 (3) (Note); to **amend** OT 2.02 (1) (intro.) and (a) (Note); and to **create** OT 2.08, relating to reciprocal credentials for service members, former service members, and their spouses.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 440.09, Stats.

Statutory authority:

Sections 15.085 (5) (b) and 440.09 (5), Stats.

Explanation of agency authority:

Section 15.085 (5) (b), Stats., provides an affiliated credentialing board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Section 440.09 (5), Stats., provides that “[t]he department or credentialing board, as appropriate, may promulgate rules necessary to implement this section.”

Related statute or rule:

Section 440.09, Stats., specifies the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.

Plain language analysis:

The proposed rule creates a provision to implement s. 440.09, Stats., as created by 2019 Wisconsin Act 143. Section 440.09, Stats., specifies the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.

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

None.

Comparison with rules in adjacent states:

Illinois:

The Illinois Statutes provide for the expedited licensure of service members and their spouses (20 ILCS 5/5-715). “Service member” includes a person whose active duty service concluded within the 2 years preceding application for licensure. A license issued to a service member or the spouse of a service member may be renewed.

Iowa:

Rules of the Professional Licensure Division of the Iowa Department of Public Health provide for the expedited reciprocal licensure of a veteran or a spouse of an active duty service member (645 IAC 645.20.3). A reciprocal license issued to a veteran or a spouse of an active duty service member may be renewed.

Michigan:

The Michigan Statutes provide for temporary licensure of the spouse of an active duty service member (MCL 339.213). A temporary license is valid for 6 months and may be renewed for one additional 6-month term if it is determined the licensee continues to meet the requirements for temporary licensure and needs additional time to fulfill the requirements for initial licensure.

Minnesota:

The Minnesota Statutes provide for temporary licensure of an individual who is an active duty military member, the spouse of an active duty military member, or a veteran who has left service in the 2 years preceding the date of license application (2019 Minnesota Statutes, Section 197.4552). A temporary license allows a qualified individual to perform regulated professional services for a limited length of time as determined by the applicable licensing board. During the temporary license period, the individual must complete the full application procedure as required by applicable law.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of s. 440.09, Stats., as created by 2019 Wisconsin Act 143, and obtaining input and feedback from the Occupational Therapists Affiliated Credentialing Board.

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

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document is attached.

Effect on small business:

These proposed rules do 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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 9:30 a.m. on March 9, 2021, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. OT 2.02 (1) (intro.) and (a) (Note) are amended to read:

OT 2.02 (1) (intro.) ~~Every~~ Except as provided under s. OT 2.08, every applicant for initial licensure as an occupational therapist or occupational therapy assistant shall submit all of the following:

(a) (Note) Application forms are available ~~upon request to the board office at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708~~ from the department of safety and professional services’ website at www.dsps.wi.gov.

SECTION 2. OT 2.06 (3) (Note) is repealed.

SECTION 3. OT 2.08 is created to read:

OT 2.08 Reciprocal credentials for service members, former service members, and their spouses. A reciprocal license to practice as an occupational therapist or occupational therapy assistant shall be granted to a service member, former service member, or the spouse of a service member or former service member who the board determines meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the board may request verification necessary to make a determination under this section.

SECTION 4. 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)

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date September 30, 2020
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) OT 2	
4. Subject Reciprocal credentials for service members, former service members, and their spouses	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected 20.165 (1) (hg)
7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The proposed rule creates a provision to implement s. 440.09, Stats., as created by 2019 Wisconsin Act 143. Section 440.09, Stats., specifies the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local governmental units participated in the development of this EIA.	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole. The Department estimates one-time administrative costs of \$68.57. These costs may be absorbed in the agency budget.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit to implementing the rule is reflecting s. 440.09, Stats., as created by 2019 Wisconsin Act 143. If the rule is not implemented, it will not reflect current requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.	
16. Long Range Implications of Implementing the Rule The long range implication of implementing the rule is reflecting the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

17. Compare With Approaches Being Used by Federal Government
None

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois:

The Illinois Statutes provide for the expedited licensure of service members and their spouses (20 ILCS 5/5-715). "Service member" includes a person whose active duty service concluded within the 2 years preceding application for licensure. A license issued to a service member or the spouse of a service member may be renewed.

Iowa:

Rules of the Professional Licensure Division of the Iowa Department of Public Health provide for the expedited reciprocal licensure of a veteran or a spouse of an active duty service member (645 IAC 645.20.3). A reciprocal license issued to a veteran or a spouse of an active duty service member may be renewed.

Michigan:

The Michigan Statutes provide for temporary licensure of the spouse of an active duty service member (MCL 339.213). A temporary license is valid for 6 months and may be renewed for one additional 6-month term if it is determined the licensee continues to meet the requirements for temporary licensure and needs additional time to fulfill the requirements for initial licensure.

Minnesota:

The Minnesota Statutes provide for temporary licensure of an individual who is an active duty military member, the spouse of an active duty military member, or a veteran who has left service in the 2 years preceding the date of license application (2019 Minnesota Statutes, Section 197.4552). A temporary license allows a qualified individual to perform regulated professional services for a limited length of time as determined by the applicable licensing board. During the temporary license period, the individual must complete the full application procedure as required by applicable law.

19. Contact Name

Dale Kleven

20. Contact Phone Number

(608) 261-4472

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **21-002**

AN ORDER to repeal OT 2.06 (3) (Note); to amend OT 2.02 (1) (intro.) and (a) (Note); and to create OT 2.08, relating to reciprocal credentials for service members, former service members, and their spouses.

Submitted by **OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD**

01-04-2021 RECEIVED BY LEGISLATIVE COUNCIL.

01-26-2021 REPORT SENT TO AGENCY.

MSK:BL

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Kimberly Wood, Program Assistant Supervisor-Adv.		2) Date When Request Submitted: 12/29/2020 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: All Boards			
4) Meeting Date:	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Annual Policy Review	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Please be advised of the following Annual Policy Review items: <ol style="list-style-type: none"> 1. Attendance/Quorum: Thank you for your service and for your commitment to meeting attendance. If you cannot attend a meeting or if you have scheduling conflicts impacting your attendance, please let us know ASAP. Timely notification is appreciated as quorum is required for our Boards, Sections and Councils to meet pursuant to Open Meetings Law. 2. Walking Quorum: Please refrain from discussing Board/Section/Council business with other members outside of legally noticed meetings so to avoid walking quorum issues pursuant to Open Meetings Law. 3. Agenda Deadlines: Please communicate agenda topics to your Executive Director before the agenda submission deadline which is 8 business days prior to a meeting. 4. Travel Voucher and Per Diem Submissions: Please submit all Per Diem and Reimbursement claims to DSPS within 30 days of the close of each month in which expenses are incurred. 5. Lodging Accommodations/Hotel Cancellation Policy: Lodging accommodations are available to eligible members. Standard eligibility: member must leave home before 6:00 a.m. to attend a meeting by the indicated start time. <ul style="list-style-type: none"> • If a member cannot attend a meeting it is their responsibility to cancel their reservation within the applicable cancellation timeframe. If a meeting is changed to occur remotely or is cancelled or rescheduled DSPS staff will cancel or modify reservations as appropriate. 6. Inclement Weather Policy: In the event of inclement weather the agency may change a meeting from an in-person venue to one that is executed remotely. 			
11) Authorization			
<i>Kimberly Wood</i>		12/29/2020	
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: <ol style="list-style-type: none"> 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
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Megan Glaeser, Bureau Assistant		2) Date When Request Submitted: 23 February 2021 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Occupational Therapist Affiliated Credentialing Board			
4) Meeting Date: 9 March 2021 2021	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Matters 1) Election of Officers, Appointment of Liaisons and Alternates, Delegation of Authorities	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: 1) The Board should conduct Election Officers: Chairperson, Vice Chairperson & Secretary 2) The newly elected Chairperson should review and appoint/reappoint Liaisons and Alternates as appropriate 3) The Board should review and then consider its existing delegated authorities and any proposals for modification of delegations. <ul style="list-style-type: none"> a. Credentialing Delegations (Questions: Sarah Norberg) b. Monitoring Delegations (Questions: Amy Mayo) c. Pre-Screening Delegations (Questions: Gretchen Mrozinski) 			
11) Authorization			
Megan Glaeser		23 February 2021	
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.			

Occupational Therapists Affiliated Credentialing Board

2020 Elections and Liaison Appointments

2020 ELECTION RESULTS	
Chairperson	Laura O'Brien
Vice Chairperson	Teresa Black
Secretary	Terry Erickson

Appointment of Liaisons and Alternates

2020 LIAISON APPOINTMENTS	
Credentialing Liaisons	Laura O'Brien, Teresa Black <i>Alternate: Amy Summers</i>
Education and Exams Liaisons	Laura O'Brien, Teresa Black <i>Alternate: Randi Hanson</i>
Monitoring Liaisons	Randi Hanson <i>Alternate: Laura O'Brien</i>
Professional Assistance Procedure Liaisons	Randi Hanson <i>Alternate: Laura O'Brien</i>
Legislative Liaisons	Teresa Black <i>Alternate: Terry Erickson</i>
Travel Liaisons	Teresa Black <i>Alternate: Amy Summers</i>
Administrative Rules Liaisons	Laura O'Brien <i>Alternate: Teresa Black</i>
Screening Panel	Terry Erickson, Teresa Black <i>Alternate: Laura O'Brien</i>

Delegation of Authorities

Document Signature Delegations

MOTION: Teresa Black moved, seconded by Terry Erickson, to delegate authority to the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to sign documents on behalf of the Board in order to carry out its duties. Motion carried unanimously.

MOTION: Teresa Black moved, seconded by Randi Hanson, in order to carry out duties of the Board, the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) has the ability to delegate signature authority for purposes of facilitating the completion of assignments during or between meetings. The members of the Board hereby delegate to the Executive Director or DPD Division Administrator, the authority to sign on behalf of a board member as necessary. Motion carried unanimously.

Delegated Authority for Urgent Matters

MOTION: Randi Hanson moved, seconded by Teresa Black, that in order to facilitate the completion of urgent matters between meetings, the Board delegates its authority to the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession), to appoint liaisons to the Department to act in urgent matters. Motion carried unanimously.

Delegation to Chief Legal Counsel Due to of Loss of Quorum

MOTION: Terry Erickson moved, seconded by Teresa Black, to delegate the review of disciplinary cases to the Department’s Chief Legal Counsel due to lack of/loss of quorum. The Board requests notification at next meeting of any actions taken pursuant to this delegation. Motion carried unanimously.

Monitoring Delegations

MOTION: Randi Hanson moved, seconded by Teresa Black, to adopt the “Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor” as presented in the March 10, 2020 agenda materials. Motion carried unanimously.

Credentialing Authority Delegations

Delegation of Authority to Credentialing Liaison

MOTION: Teresa Black moved, seconded by Randi Hanson, to delegate authority to the Credentialing Liaison(s) to serve as a liaison between DSPS and the Board and to act on behalf of the Board in regard to credentialing applications or questions presented to them. Motion carried unanimously.

Delegation of Authority to DSPS When Credentialing Criteria is Met

MOTION: Teresa Black moved, seconded by Randi Hanson, to delegate credentialing authority to DSPS to act upon applications that meet all credentialing statutory and regulatory requirements without Board or Board liaison review. Motion carried unanimously.

Delegated Authority for Application Denial Reviews

MOTION: Teresa Black moved, seconded by Terry Erickson, that the Department's Attorney Supervisors, DLSC Administrator, or their designee are authorized to serve as the Board's designee for purposes of reviewing and acting on requests for hearing as a result of a denial of a credential. Motion carried unanimously.

Pre-Screening Delegation to Open Cases

MOTION: Teresa Black moved, seconded by Terry Erickson, to delegate pre-screening decision making authority to the DSPS screening attorney for opening cases as outlined below:

1. OWIs of 3 or more that occurred in the last 5 years.
2. Reciprocal discipline cases.
3. Impairment and/or diversion at work that includes a positive drug/alcohol test or admission by respondent.
4. Conviction of a misdemeanor or felony that the attorney believes is substantially related and is not otherwise excluded from consideration via Wis. Stat. ch. 111.
5. No response from the respondent after intake requested a response (case would be opened for the failure to respond issue as well as the merits).

Motion carried unanimously.

Pre-Screening Delegation to Close Cases

MOTION: Teresa Black moved, seconded by Randi Hanson, to delegate pre-screening decision making authority to the DSPS screening attorney for closing cases as outlined below:

1. One OWI that is non-work related and if AODA assessment completed, assessment does not indicate dependency.
2. Complaints that even if allegations are true, do not amount to a violation of law or rules.

Motion carried unanimously.

Voluntary Surrenders

MOTION: Teresa Black moved, seconded by Terry Erickson, to delegate authority to the assigned case advisor to accept or refuse a request for voluntary surrender pursuant to Wis. Stat. § 440.19 for a credential holder who has a pending complaint or disciplinary matter. Motion carried unanimously.

Education, Continuing Education and/or Examination Delegation(s)

MOTION: Randi Hanson moved, seconded by Teresa Black, to delegate authority to the Education, Continuing Education and/or Examination Liaison(s) to

address all issues related to education, continuing education, and examinations. Motion carried unanimously.

Authorization for DSPS to Provide Board Member Contact Information to National Regulatory Related Bodies

MOTION: Teresa Black moved, seconded by Terry Erickson, to authorize DSPS staff to provide national regulatory related bodies with all board member contact information that DSPS retains on file. Motion carried unanimously.

Optional Renewal Notice Insert Delegation

MOTION: Teresa Black moved, seconded by Randi Hanson to designate the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to provide a brief statement or link relating to board-related business within the license renewal notice at the Board's or Board designee's request. Motion carried unanimously.

Legislative Liaison Delegation

MOTION: Terry Erickson moved, seconded by Randi Hanson, to delegate authority to the Legislative Liaisons to speak on behalf of the Board regarding legislative matters. Motion carried unanimously.

Travel Delegation

MOTION: Terry Erickson moved, seconded by Randi Hanson, to delegate authority to the Travel Liaison to approve any board member travel. Motion carried unanimously.

Roles and Authorities Delegated for Monitoring

The Monitoring Liaison (“Liaison”) is a Board/Section designee who works with department monitors (“Monitor”) to enforce Board/Section orders as explained below.

~~Current~~ Authorities Delegated to the Monitoring Liaison

The Liaison may take the following actions on behalf of the Board/Section:

1. Grant a temporary reduction in random drug screen frequency upon Respondent’s request if he/she is unemployed and is otherwise compliant with Board/Section order. The temporary reduction will be in effect until Respondent secures employment in the profession. The Department Monitor (“Monitor”) will draft an order and sign on behalf of the Liaison.
2. Grant a stay of suspension if Respondent is eligible per the Board/Section order. The Monitor will draft an order and sign on behalf of the Liaison.
3. Remove the stay of suspension if there are repeated violations or a substantial violation of the Board/Section order. In conjunction with removal of any stay of suspension, the Liaison may prohibit Respondent from seeking reinstatement of the stay for a specified period of time. The Monitor will draft an order and sign on behalf of the Liaison.
4. Grant or deny approval when Respondent proposes continuing/~~disciplinary~~/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. unless the order specifically requires full-Board/Section approval.
5. Grant a maximum of one 90-day extension, if warranted and requested in writing by Respondent, to complete Board/Section-ordered continuing/~~disciplinary~~/remedial education.
6. Grant a maximum of one extension or payment plan for proceeding costs and/or forfeitures if warranted and requested in writing by Respondent.
7. Grant a maximum of one extension, if warranted and requested in writing by Respondent, to complete a Board/Section-ordered evaluation or exam.
- ~~7.8.~~ Grant full reinstatement of licensure if Respondent has fully complied with all terms of the order without deviation. The Monitor will draft an order and obtain ~~the signature of~~ written authorization from the Liaison to sign on their behalf.
- ~~8.9.~~ Grant or deny a request to appear before the Board/Section in closed session.
- ~~9.10.~~ Board Monitoring The Liaison may determine whether Respondent’s petition is eligible for consideration by the full Board/Section.
- ~~10.11.~~ (*Except Pharmacy and Medical*) Accept Respondent’s written request to surrender credential. If accepted by the Liaison, Monitor will consult with Board Counsel to determine if a stipulation is necessary. If a stipulation is not necessary, Monitor will draft an order and sign on behalf of the Liaison. If denied by the Liaison, the request to surrender credential will go to the full Board for review.

~~11.12.~~ *(Except Pharmacy)* Grant Respondent's petition for a reduction in drug screens per the standard schedule, below. If approved, Monitor will draft an order and sign on behalf of the Liaison. Orders that do not start at 49 screens will still follow the same standard schedule.

- a. ~~Initial Year 1:~~ 49 screens (including 1 hair test, if required by original order)
- b. ~~1st Reduction Year 2:~~ 36 screens (plus 1 hair test, if required by original order)
- c. ~~2nd Reduction Year 3:~~ 28 screens plus 1 hair test
- ~~d. Year 4: 28 screens plus 1 hair test~~

- e. ~~Year 5: 14 screens plus 1 hair test~~
- d. 3rd Reduction: 14 screens plus 1 hair test

~~12.13.~~ *(Dentistry only)* Ability to approve or deny all requests from a respondent.

~~13.14.~~ *(Except Nursing)* ~~Board Monitoring~~ The Liaison may approve or deny Respondent's request to be excused from drug and alcohol testing for work, travel, etc.

~~Current~~ Authorities Delegated to the Department Monitor

The Monitor may take the following actions on behalf of the Board/Section, draft an order and sign:

1. Grant full reinstatement of licensure if education CE is the sole condition of the limitation and Respondent has submitted the required proof of completion for approved courses.
2. Suspend the license if Respondent has not completed Board/Section-ordered education CE and/or paid costs and forfeitures within the time specified by the Board/Section order. The Monitor may remove the suspension and issue an order when proof of completion and/or payment have been received.
3. Suspend the license (or remove stay of suspension) if Respondent fails to enroll and participate in an Approved Program for drug and alcohol testing within 30 days of the order, or if Respondent ceases participation in the Approved Program without Board approval. This delegated authority only pertains to respondents who must comply with drug and/or alcohol testing requirements.

Authorities Delegated to Board Legal Counsel

Board Legal Counsel may take the following actions on behalf of the Board/Section:

1. Sign Monitoring orders that result from Board/Section meetings on behalf of the Board/Section Chair.

PROPOSED 2021 CREDENTIALING DELEGATION MOTIONS

Delegation of Authority to Credentialing Liaison

MOTION: to delegate authority to the Credentialing Liaison(s) to serve as a liaison between the Department and the Board and to act on behalf of the Board in regard to credentialing applications or questions presented to them, including the signing of documents related to applications.

Delegation of Authority to DSPS When Credentialing Criteria is Met

MOTION: to delegate credentialing authority to the Department to act upon applications that meet all credentialing statutory and regulatory requirements without Board or Board liaison review.

Delegation of Authority for Predetermination Reviews

MOTION: to delegate authority to the Department Attorneys to make decisions regarding predetermination applications pursuant to Wis. Stat. § 111.335(4)(f).

Delegation of Authority for Conviction Reviews

MOTION: to delegate authority to the Department Attorneys to review and approve applications with convictions which are not substantially related to the practice of occupational therapy.

Or, alternatively,

MOTION: to delegate authority to Department Paralegals to review and approve applications with [optional: up to X] municipal/ordinance violations which are not substantially related to the practice of occupational therapy.

MOTION: to delegate authority to Department Attorneys to review and approve applications with [optional: up to X] municipal/ordinance violations and misdemeanors [optional: each more than X years old and] which are not substantially related to the practice of occupational therapy.

Delegation to DSPS When Applicant's History Has Been Previously Reviewed

MOTION: to delegate authority to Department staff to approve applications where criminal background checks have been approved for a previous occupational therapy credential and there is no new conviction record.

Delegation of Authority for Reciprocity Reviews

MOTION: to delegate authority to the Department Attorneys to review and approve reciprocity applications in which the out of state license requirements are substantially equivalent to the Board's requirements.

Delegated Authority for Application Denial Reviews

MOTION: to delegate authority to the Department's Attorney Supervisors to serve as the Board's designee for purposes of reviewing and acting on requests for hearing as a result of a denial of a credential.

Occupational Therapy Pre-screening Delegation

2020:

Pre-Screening Delegation to Open Cases

MOTION: Teresa Black moved, seconded by Terry Erickson, to delegate pre-screening decision making authority to the DLSC screening attorney for opening cases as outlined below:

1. OWIs of 3 or more that occurred in the last 5 years.
2. Reciprocal discipline cases.
3. Impairment and/or diversion at work that includes a positive drug/alcohol test or admission by respondent.
4. Conviction of a misdemeanor or felony that the attorney believes is substantially related and is not otherwise excluded from consideration via Wis. Stat. ch. 111.
5. No response from the respondent after intake requested a response (case would be opened for the failure to respond issue as well as the merits).

Motion carried unanimously.

Pre-Screening Delegation to Close Cases

MOTION: Teresa Black moved, seconded by Randi Hanson, to delegate pre-screening decision making authority to the DLSC screening attorney for closing cases as outlined below:

1. One OWI that is non-work related and if AODA assessment completed, assessment does not indicate dependency.
2. Complaints that even if allegations are true, do not amount to a violation of law or rules.

Motion carried unanimously.

DLSC asks that the same motions be made for 2021.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Dale Kleven Administrative Rules Coordinator		2) Date When Request Submitted: 2/25/21 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Occupational Therapists Affiliated Credentialing Board			
4) Meeting Date: 3/9/21	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration 1. Preliminary Rule Draft – OT 2 – Licensure Requirements 2. Scope Statement – OT 3 – Continuing Education 3. Pending or Possible Rulemaking Projects a. Board Oral Examinations Under OT 2	
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:			
11) Authorization			
<i>Dale Kleven</i>		<i>February 25, 2021</i>	
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.			

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 amend OT 2.02 (1) (b), relating to licensure requirements.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 448.963, Stats.

Statutory authority:

Sections 15.085 (5) (b) and 227.11 (2) (a), Stats.

Explanation of agency authority:

Section 15.085 (5) (b), Stats., provides that an affiliated credentialing board, such as the Occupational Therapists Affiliated Credentialing Board, “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 227.11 (2) (a), Stats., sets forth the parameters of an agency’s rule-making authority, stating an agency “may promulgate rules interpreting provisions of any statute enforced or administered by the agency. . .but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Related statute or rule:

Section 448.963, Stats., sets forth the licensure requirements for occupational therapists and occupational therapy assistants.

Plain language analysis:

Section OT 2.02 (1) (b) requires an applicant to provide evidence that the applicant is certified as an occupational therapist or occupational therapy assistant by the National Board for Certification in Occupational Therapy (NBCOT). This requirement conflicts with the licensure provisions of s. 448.963, Stats., which require initial certification from NBCOT but do not require the certification be current. The proposed rules update s. OT 2.02 (1) (b) to reflect the requirements for licensure under s. 448.963, Stats.

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

None.

Comparison with rules in adjacent states:

Illinois: Rules of the Illinois Department of Financial and Professional Regulation set forth the licensure requirements for occupational therapists and occupational therapy assistants (68 Ill. Admin. Code 1315.110). The requirements do not include certification by the National Board for Certification in Occupational Therapy (NBCOT).

Iowa: Rules of the Iowa Board of Physical and Occupational Therapy set forth the licensure requirements for occupational therapists and occupational therapy assistants (645 IAC 206). The requirements do not include certification by the National Board for Certification in Occupational Therapy (NBCOT).

Michigan: Rules of the Michigan Board of Occupational Therapists set forth the licensure requirements for occupational therapists (Mich Admin Code, R 338.1223) and occupational therapy assistants (Mich Admin Code, R 338.1233). The requirements do not include certification by the National Board for Certification in Occupational Therapy (NBCOT).

Minnesota: The Minnesota Statutes provide the licensure qualifications for occupational therapists (Minnesota Statutes 2020, section 148.6408) and occupational therapy assistants (Minnesota Statutes 2020, section 148.6410). The qualifications do not include certification by the National Board for Certification in Occupational Therapy (NBCOT).

Summary of factual data and analytical methodologies:

The proposed rules were developed by comparing the provisions of s. OT 2.02 with the requirements for licensure under s. 448.963, Stats.

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

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

Effect on small business:

These proposed rules do 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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. OT 2.02 (1) (b) is amended to read:

OT 2.02 (1) (b) Evidence ~~that the applicant is certified~~ of initial certification as an occupational therapist or occupational therapy assistant ~~by~~ from the ~~national board for certification in occupational therapy~~ National Board for Certification in Occupational Therapy; and that the applicant has completed an occupational therapist educational program, or an occupational therapy assistant educational program.

SECTION 2. 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)

STATEMENT OF SCOPE

Occupational Therapists Affiliated Credentialing Board

Rule No.: Chapter OT 3

Relating to: Continuing Education

Rule Type: Permanent

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

N/A

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

The Occupational Therapists Affiliated Credentialing Board will conduct a comprehensive evaluation of its continuing education rules under ch. OT 3 to ensure consistency with current professional and academic practices and standards and applicable Wisconsin statutes. The evaluation will include consideration of a request from the Wisconsin Occupational Therapy Association (WOTA) that the Board's rules be updated to require seminars, workshops, lectures, symposia, and professional conferences be sponsored or approved by acceptable health-related or other organizations, including WOTA, in order to qualify as acceptable continuing education.

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

Chapter OT 3 currently contains all of the rules of the Occupational Therapists Affiliated Credentialing Board relating to continuing education. The Board has identified the need for a comprehensive evaluation of these rules to ensure they are consistent with current professional and academic practices and standards and applicable Wisconsin statutes.

The alternative of not evaluating these rules would be less beneficial to affected entities.

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

Section 15.085 (5) (b), Stats., provides that affiliated credentialing boards, such as the Occupational Therapists Affiliated Credentialing Board, "shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains . . ."

Section 448.965 (1) (b), Stats., provides the Occupational Therapists Affiliated Credentialing Board may promulgate rules that establish "[c]ontinuing education requirements for license renewal for an occupational therapist or occupational therapy assistant under s. 448.967 (2)."

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

80 hours

6. List with description of all entities that may be affected by the proposed rule:

Wisconsin licensed occupational therapists and occupational therapy assistants.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule will have minimal to no economic impact on small businesses and the state's economy as a whole.

Contact Person: Dale Kleven, Administrative Rule Coordinator, DSPSAdminRules@wisconsin.gov, (608) 261-4472

Approved for publication:

Approved for implementation:

Authorized Signature

Authorized Signature

Date Submitted

Date Submitted

Chapter OT 2

LICENSURE OF OCCUPATIONAL THERAPISTS AND
OCCUPATIONAL THERAPY ASSISTANTS

OT 2.01	Authority and purpose.	OT 2.05	Examination review by applicant.
OT 2.02	Applications and credentials.	OT 2.06	Board review of examination error claim.
OT 2.03	Examinations, panel review of applications.	OT 2.07	Temporary license.
OT 2.04	Exemption from written examination for certain occupational therapy assistant applicants.		

OT 2.01 Authority and purpose. The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to govern the licensure and regulation of occupational therapists and occupational therapy assistants.

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

OT 2.02 Applications and credentials. (1) Every applicant for initial licensure as an occupational therapist or occupational therapy assistant shall submit all of the following:

(a) A completed application form.

Note: Application forms are available upon request to the board office at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

(b) Evidence that the applicant is certified as an occupational therapist or occupational therapy assistant by the national board for certification in occupational therapy; and that the applicant has completed an occupational therapist educational program, or an occupational therapy assistant educational program.

(c) Written verification from the national board for certification in occupational therapy that the applicant has passed the examination required by this chapter.

(2) Requests for verification from the national board for certification in occupational therapy shall be made by the applicant.

(3) An application for licensure is not complete until the board has received both a completed application form and verification of initial certification from the national board for certification in occupational therapy.

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

OT 2.03 Examinations, panel review of applications. (1) Applicants for licensure as an occupational therapist or occupational therapy assistant shall pass the certification examination for occupational therapist or the certification examination for occupational therapy assistant of the national board for certification in occupational therapy, and shall complete an open book examination on statutes and rules governing the practice of occupational therapy in Wisconsin.

(2) An applicant may be required to complete an oral examination if the applicant meets any of the following criteria:

(a) Has a medical condition which in any way impairs or limits the applicant's ability to practice occupational therapy with reasonable skill and safety.

(b) Uses chemical substances so as to impair in any way the applicant's ability to practice occupational therapy with reasonable skill and safety.

(c) Has been disciplined or had licensure denied by a licensing or regulatory authority in Wisconsin or another jurisdiction.

(d) Has been convicted of a crime the circumstances of which substantially relate to the practice of occupational therapy.

(e) Has not practiced occupational therapy for a period of 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.

(f) Has been found negligent in the practice of occupational therapy or has been a party in a lawsuit in which it was alleged that the applicant has been negligent in the practice of occupational therapy.

(g) Has been diagnosed as suffering from pedophilia, exhibitionism or voyeurism.

(h) Has within the past 2 years engaged in the illegal use of controlled substances.

(i) Has been subject to adverse formal action during the course of occupational therapy education, postgraduate training, hospital practice, or other occupational therapy employment.

(j) Has graduated from an occupational therapy school not approved by the board.

(3) An application filed under s. OT 2.01 shall be reviewed by an application review panel of at least 2 board members designated by the chairperson of the board. The panel shall determine whether the applicant is eligible for a license without completing an oral examination.

(4) All written or oral examinations shall be conducted in the English language.

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

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

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

History: CR 02-026; cr. Register December 2002 No. 564, eff. 1-1-03; CR 13-109; am. (2) (e), (j) Register September 2014 No. 705, eff. 10-1-14.

OT 2.04 Exemption from written examination for certain occupational therapy assistant applicants. An applicant for licensure as an occupational therapy assistant who graduated from an occupational therapy assistant educational pro-

gram prior to 1977 is exempt from the requirements for a written licensure examination for occupational therapy assistant.

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

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

(2) Examination reviews are by appointment only.

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

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

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

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

(7) The applicant may review the examination in the presence of a proctor. The applicant shall be provided with a form on which to write comments, questions or claims of error regarding any items in the examination. Bound reference books shall be permitted. Applicants shall not remove any notes from the area. Notes shall be retained by the proctor and made available to the applicant for use at a hearing, if desired. The proctor shall not defend the examination nor attempt to refute claims of error during the review.

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

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

OT 2.06 Board review of examination error claim.

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

(a) The applicant's name and address.

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

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

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

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

(3) If the decision does not result in the applicant passing the examination, a notice of denial of license shall be issued. If the board issues a notice of denial following its review, the applicant may request a hearing under s. SPS 1.05.

Note: The board office is located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

History: CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03; correction in (3) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.

OT 2.07 Temporary license. (1) An applicant for licensure may apply to the board for a temporary license to practice as an occupational therapist or occupational therapy assistant if the applicant does all of the following:

(a) Remits the fee specified in s. 440.05 (6), Stats.

(b) Is a graduate of an approved school and is scheduled to take the national certification examination for occupational therapist or occupational therapist assistant or has taken the national certification examination and is awaiting results.

(2) Practice during the period of the temporary license shall be in consultation, at least monthly, with an occupational therapist who shall at least once each month endorse the activities of the person holding the temporary license.

(3) An applicant with a temporary license may practice at no more than 2 separate employment locations.

(4) 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.

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

History: CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03; CR 13-109: am. (4), r. (5), am. (6) Register September 2014 No. 705, eff. 10-1-14.