



**TELECONFERENCE/VIRTUAL
OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD
Room N208, 4822 Madison Yards Way, Madison
Contact: Tom Ryan (608) 266-2112
September 11, 2018**

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 March 13, 2018 (4-9)**
- C) Administrative Updates**
 - 1) Department and Staff Updates
 - 2) Board Members – Term Expiration Dates
 - a) Brian Holmquist – 07/01/2013
 - b) Mary Kassens – 07/01/2019
 - c) Laura O’Brien – 07/01/2019
 - d) Amy Summers – 07/01/2018
 - 3) Wis. Stat. s 15.085 (3)(b) – Biannual Meeting with the Medical Examining Board
- D) Legislation/Administrative Rule Matters (10-16)**
 - 1) Review of Preliminary Draft Rules for OT 4, Relating to Supervisions and Practice of Occupational Therapy Assistants
 - 2) Administrative Rules Reporting Requirement Under 2017 Wisconsin Act 108
 - 3) Update on Other Legislation and Pending or Possible Rulemaking Projects
- E) Speaking Engagement(s), Travel, or Public Relation Requests**
 - 1) Travel Report from 2018 NBCOT State Regulatory Leadership Forum on April 6-7, 2018 in Atlanta, GA
- F) Informational Items**
- G) Items Added After Preparation of Agenda:**
 - 1) Introductions, Announcements and Recognition
 - 2) Administrative Updates
 - 3) Education and Examination Matters
 - 4) Credentialing Matters
 - 5) Practice Matters

- 6) Legislation/Administrative Rule Matters
- 7) Liaison Report(s)
- 8) Informational Item(s)
- 9) Disciplinary Matters
- 10) Presentations of Petition(s) for Summary Suspension
- 11) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
- 12) Presentation of Proposed Decisions
- 13) Presentation of Interim Order(s)
- 14) Petitions for Re-Hearing
- 15) Petitions for Assessments
- 16) Petitions to Vacate Order(s)
- 17) Petitions for Designation of Hearing Examiner
- 18) Requests for Disciplinary Proceeding Presentations
- 19) Motions
- 20) Petitions
- 21) Appearances from Requests Received or Renewed
- 22) Speaking Engagement(s), Travel, or Public Relation Request(s)

H) Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (§ 19.85 (1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 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.).

I) Deliberation on Division of Legal Services and Compliance (DLSC) Matters

- 1) **Deliberation on Stipulations and Final Decisions and Orders**
 - a) 16 OTB 002 – Dawn Malaj, O.T. **(17-22)**
 - b) 17 OTB 003 – Jean Wobig, O.T.A. **(23-28)**
- 2) **Case Closings**
 - a) 16 OTB 003 – H.B. **(29-38)**

J) Open Cases

K) Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) Application Matters
- 4) Disciplinary Matters
- 5) Monitoring Matters
- 6) Professional Assistance Procedure (PAP) Matters
- 7) Petition(s) for Summary Suspensions
- 8) Proposed Stipulations, Final Decisions and Orders
- 9) Administrative Warnings
- 10) Proposed Decisions
- 11) Matters Relating to Costs
- 12) Complaints
- 13) Case Closings
- 14) Case Status Report
- 15) Petition(s) for Extension of Time
- 16) Proposed Interim Orders
- 17) Petitions for Assessments and Evaluations

- 18) Petitions to Vacate Orders
- 19) Remedial Education Cases
- 20) Motions
- 21) Petitions for Re-Hearing
- 22) Appearances from Requests Received or Renewed

L) Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

ADJOURNMENT

ORAL EXAMINATION OF CANDIDATES FOR LICENSURE

ROOM N253

9:45 A.M. OR IMMEDIATELY FOLLOWING FULL BOARD MEETING

CLOSED SESSION – Reviewing Applications and Conducting Oral Examinations of One (at the time of agenda publication) Candidate for Licensure and Any Additional Examinations Added After Agenda Preparation – Brian Holmquist & Laura O’Brien

NEXT MEETING DATE: NOVEMBER 27, 2018

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.

**TELECONFERENCE/VIRTUAL MEETING
OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD
MEETING MINUTES
March 13, 2018**

PRESENT: Brian Holmquist (*in person*), Mary Kassens, Laura O'Brien, Amy Summers

STAFF: Tom Ryan, Executive Director; Kimberly Wood, Program Assistant Supervisor-Advanced; and other Department staff

CALL TO ORDER

Brian Holmquist, Chair, called the meeting to order at 9:30 a.m. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

Amendments to the Agenda

- Open Session: Make the correction as outlined for Item D. "Occupational License Study" sub item 1) "2017 Wisconsin Act 59 (enacted in State Budget Bill)"

MOTION: Laura O'Brien moved, seconded by Amy Summers, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Laura O'Brien moved, seconded by Mary Kassens, to approve the minutes of November 28, 2017 as published. Motion carried unanimously.

ADMINISTRATIVE UPDATES

Election of Officers

BOARD CHAIR

NOMINATION: Laura O'Brien nominated Brian Holmquist for the Office of Board Chair.

Tom Ryan called for nominations three (3) times.

Brian Holmquist was elected as Chair by unanimous consent.

VICE CHAIR

NOMINATION: Brian Holmquist nominated Laura O'Brien for the Office of Vice Chair.

Tom Ryan called for nominations three (3) times.

Laura O'Brien was elected as Vice Chair by unanimous consent.

SECRETARY

NOMINATION: Brian Holmquist nominated Mary Kassens for the Office of Secretary.

Tom Ryan called for nominations three (3) times.

Mary Kassens was elected as Secretary by unanimous consent.

2018 ELECTION RESULTS	
Board Chair	Brian Holmquist
Vice Chair	Laura O'Brien
Secretary	Mary Kassens

Appointment of Liaisons and Alternates

2018 LIAISON APPOINTMENTS	
Credentialing Liaisons	Laura O'Brien, Mary Kassens Alternate – Brian Holmquist, Amy Summers
Education and Exams Liaisons	Laura O'Brien, Amy Summers Alternate – Brian Holmquist
Monitoring Liaisons	Laura O'Brien, Alternate – Amy Summers
Professional Assistance Procedure Liaison	Amy Summers Alternate – Laura O'Brien, Brian Holmquist
Legislative Liaison	Laura O'Brien Alternate – Brian Holmquist
Travel Liaison	Brian Holmquist Alternate – Laura O'Brien
Administrative Rules Liaison	Laura O'Brien Alternate – Brian Holmquist
Screening Panel	Amy Summers, Laura O'Brien Alternate – Brian Holmquist

MOTION: Laura O'Brien moved, seconded by Amy Summers, to affirm the Chair's appointment of liaisons for 2017. Motion carried unanimously.

Delegation of Authorities

Document Signature Delegation

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, to delegate authority to the Chair or chief presiding officer, or longest serving member of the Board, by order of succession, to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair, chief presiding officer, or longest serving member of the Board, has the ability to delegate this signature authority for purposes of

facilitating the completion of assignments during or between meetings. The Chair, chief presiding officer, or longest serving member of the Board delegates the authority to Executive Director, or designee, to sign the name of any Board member on documents as necessary and appropriate. Motion carried unanimously.

Delegated Authority for Urgent Matters

MOTION: Brian Holmquist moved, seconded by Amy Summers, that, in order to facilitate the completion of urgent matters between meetings, the Board delegates its authority by order of succession to the Chair, highest ranking officer, or longest serving member of the Board, to appoint liaisons to the Department to act in urgent matters, make appointments to vacant liaison, panel and committee positions, and to act when knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

Monitoring Delegations

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, to adopt the "Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor" as presented. Motion carried unanimously.

Credentialing Authority Delegations

Delegation of Authority to Credentialing Liaison

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, to delegate authority to the Credentialing Liaisons to make all credentialing decisions. Motion carried unanimously.

Delegation of Authority to DSPS When Rule and Statute Criteria is Met

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, to delegate credentialing authority to DSPS to act upon applications that meet the criteria of Rule and Statute and thereby would not need further Board or Board liaison review. Motion carried unanimously.

Delegated Authority for Application Denial Reviews

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, that the Board counsel or another department attorney is formally authorized to serve as the Board's designee for purposes of Wis. Admin Code § SPS 1.08(1). Motion carried unanimously.

Voluntary Surrenders

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, to delegate authority to the assigned case advisor to accept or refuse a request for voluntary surrender of a

license by a licensee who has a pending complaint or disciplinary matter per Wis. Stat. § 440.19. Motion carried unanimously.

Continuing Education and/or Education Delegations

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, to delegate authority to the Office of Education and Examination Liaison(s) to address all issues related to CE, education and examinations. Motion carried unanimously.

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

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, to authorize Department staff to provide national regulatory related authorities with all Board member contact information that the Department retains on file. Motion carried unanimously.

Optional Renewal Notice Insert Delegation

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, to designate authority by order of succession to the Chair, highest ranking officer, or longest serving member of the Board, 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: Brian Holmquist moved, seconded by Laura O'Brien, to delegate authority to the Legislative Liaisons to speak on behalf of the Board regarding legislative matters. Motion carried unanimously.

Travel Delegation

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, to delegate authority to the Travel Liaison to approve any Board Member travel. Motion carried unanimously.

Occupational Licensure Study Liaison

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, to designate by order of succession to the Chair, highest ranking officer, or longest serving member of the Board, as the Board's liaison to represent and speak on behalf of the Board regarding occupational license review and related matters. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE MATTERS

Scope Statement for OT 4, Relating to Supervision and Practice of Occupational Therapy Assistants

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, to approve the Scope Statement revising OT 4, Relating to Supervision and Practice of Occupational Therapy Assistants, for submission to the Department of Administration and Governor's Office and for publication. Additionally, the Board moves to authorize the Chair to approve the scope for implementation no less than 10 days after publication. Motion carried unanimously.

Update on Other Legislation and Pending or Possible Rulemaking Projects

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, to request that Department staff draft a Scope Statement revising OT 3, Relating to biennial registration and to authorize the Chair to approve the scope statement, for submission to the Department of Administration and Governor's Office, and for publication. Additionally, the Board moves to authorize the Chair to approve the scope for implementation no less than 10 days after publication. Motion carried unanimously.

SPEAKING ENGAGEMENTS, TRAVEL, OR PUBLIC RELATION REQUESTS

Consider Attendance at the 2018 NBCOT State Regulatory Leadership Forum – April 6 & 7, 2018 – Atlanta, GA

MOTION: Brian Holmquist moved, seconded by Mary Kassens, to designate Amy Summers, as the Board's delegate, to attend the 2018 NBCOT State Regulatory Leadership Forum on April 6 & 7, 2018 in Atlanta, GA and to authorize travel. Motion carried unanimously.

CLOSED SESSION

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, 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.). The Chair read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Brian Holmquist-yes; Mary Kassens-yes; Laura O'Brien-yes; and Amy Summers-yes. Motion carried unanimously.

The Board convened into Closed Session at 10:14 a.m.

RECONVENE TO OPEN SESSION

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, to reconvene in Open Session. Motion carried unanimously.

The Board reconvened to Open Session at 10:15 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION,

IF VOTING IS APPROPRIATE

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, 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.)

DELIBERATION ON DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

16 OTB 008

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, to close DLSC case number 16 OTB 008, against L.H., for No Violation. Motion carried unanimously.

DELEGATION OF RATIFICATION OF EXAMINATION RESULTS AND RATIFICATION OF LICENSES AND CERTIFICATES

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: Brian Holmquist moved, seconded by Laura O'Brien, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:23 a.m.

**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: 8/29/18 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: 9/11/18	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislative and Administrative Rule Matters – Discussion and Consideration 1. Review of Preliminary Draft Rules for OT 4 Relating to Supervision and Practice of Occupational Therapy Assistants 2. Administrative Rules Reporting Requirement Under 2017 Wisconsin Act 108 3. Update on Other Legislation and Pending or Possible Rulemaking Projects	
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>August 29, 2018</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 4.04 (4) (a) and create OT 4.04 (4) (am), relating to supervision and practice of occupational therapy assistants.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

None.

Statutory authority:

Sections 15.085 (5) (b) and 448.965 (2), 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. . .” The proposed rule will provide guidance concerning the supervision and practice of occupational therapy assistants.

Section 448.965 (2), Stats., provides the Occupational Therapists 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.”

Related statute or rule:

None.

Plain language analysis:

Current rules provide that, when general supervision is allowed, the supervising occupational therapist must have direct contact with the occupational therapy assistant and face-to-face contact with the client by every tenth session of occupational therapy and no less than one time per calendar month. The proposed rules create an exception to

this requirement for circumstances, including those in the practice areas of home health and children from birth to 3 years old, when occupational therapy services are provided once per calendar month or less frequently than once per calendar month.

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 specify the requirements for supervision of an occupational therapy assistant (68 Ill. Adm. Code 1315.163). The rules provide a minimum guideline of formal supervision as follows:

- An occupational therapy assistant who has less than one year of work experience or who is entering new practice environments or developing new skills must receive a minimum of 5 percent on-site face-to-face supervision from a registered occupational therapist per month. On-site supervision consists of direct, face-to-face collaboration in which the supervisor must be on the premises. The remaining work hours must be supervised by a combination of telephone, electronic communication, telecommunication, technology, or face-to-face consultation.
- An occupational therapy assistant with more than one year of experience in current practice must have a minimum of 5 percent direct supervision from a registered occupational therapist per month. The 5 percent direct supervision must consist of 2 percent direct, face-to-face collaboration. The remaining 3 percent of supervision must be a combination of telephone, electronic communication, telecommunication technology, or face-to-face consultation. The remaining work hours must be supervised in varying patterns as determined by the demands of the areas of service and the competency of the individual assistant.

Iowa: Rules of the Iowa Board of Physical and Occupational Therapy specify the requirements for supervision of an occupational therapy assistant (645 IAC 206.8). The rules provide that a licensed occupational therapist may provide on-site supervision or supervision by telecommunication of an occupational therapy assistant, as long as the supervising occupational therapist participates in treatment. Participation in treatment must include direct face-to-face patient contact every twelfth visit or 60 calendar days, whichever comes first, for all patients regardless of setting.

Michigan: Rules of the Michigan Department of Licensing and Regulatory Affairs specify the requirements for supervision of an occupational therapy assistant (Mich Admin Code, R 338.1229). The rules provide that an occupational therapist who delegates limited assessments, tasks, or interventions to an occupational therapy assistant must determine and provide the appropriate level of supervision. The appropriate level of supervision must be determined based on the occupational therapy assistant's education, training, and experience and includes general supervision or direct supervision.

“General supervision” means that the occupational therapist is not required to be physically present on site, but shall be continuously available at the time the limited assessment, task, or intervention is performed. Continuously available includes availability by telecommunication or other electronic device.

“Direct supervision” means that the occupational therapist is physically present with the occupational therapy assistant or immediately available for direction and onsite supervision at the time the limited assessment, task, or intervention is performed, and that the occupational therapist has direct contact in the physical presence of the patient or client during each visit.

Minnesota: The Minnesota Statutes specify the requirements for supervision of an occupational therapy assistant (Minnesota Statutes 2017, section 148.6432). The statutes provide that an occupational therapist must determine the frequency and manner of supervision of an occupational therapy assistant performing delegated treatment procedures based on the condition of the patient or client, the complexity of the treatment procedure, and the proficiencies of the occupational therapy assistant. Face-to-face collaboration between the occupational therapist and the occupational therapy assistant must occur, at a minimum, every two weeks, during which time the occupational therapist is responsible for all of the following:

- Planning and documenting an initial treatment plan and discharge from treatment.
- Reviewing treatment goals, therapy programs, and client progress.
- Supervising changes in the treatment plan.
- Conducting or observing treatment procedures for selected clients and documenting appropriateness of treatment procedures.
- Ensuring the service competency of the occupational therapy assistant in performing delegated treatment procedures.

Summary of factual data and analytical methodologies:

The rules were developed using recommendations from the Wisconsin Occupational Therapy Association and input from the Occupational Therapists Affiliated Credentialing Board. No other factual data or analytical methodologies were used.

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

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 Kirsten.Reader@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 4.04 (4) (a) is amended to read:

OT 4.04 (4) (a) When general supervision is allowed, the supervising occupational therapist shall, except as provided under par. (am), have direct contact with the occupational therapy assistant and face-to-face contact with the client by every tenth session of occupational therapy and no less than ~~one time~~ once per calendar month. Direct contact with the occupational therapy assistant ~~is for the purpose of~~ shall include reviewing the progress and effectiveness of treatment, ~~and~~ Direct contact may occur simultaneously or separately from ~~the~~ face-to-face contact with the client.

SECTION 2. OT 4.04 (4) (am) is created to read:

OT 4.04 (4) (am) When general supervision is allowed, and occupational therapy services are provided to a client once per calendar month or less frequently than once per calendar month, the supervising occupational therapist shall have direct contact with the occupational therapy assistant and face-to-face contact with the client no less than every other session of occupational therapy.

SECTION 3. 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)

OT 4.04 Supervision and practice of occupational therapy assistants.

- (1)** An occupational therapy assistant must practice under the supervision of an occupational therapist. Supervision is an interactive process that requires both the occupational therapist and the occupational therapy assistant to share responsibility for communication between the supervisor and the supervisee. The occupational therapist is responsible for the overall delivery of occupational therapy services and shall determine which occupational therapy services to delegate to the occupational therapy assistant or non-licensed personnel based on the establishment of service competence between supervisor and supervisee, and is accountable for the safety and effectiveness of the services provided.
- (2)** Supervision of an occupational therapy assistant by an occupational therapist shall be either close or general. The supervising occupational therapist shall have responsibility for the outcome of the performed service.
- (3)** When close supervision is required, the supervising occupational therapist shall have daily contact on the premises with the occupational therapy assistant. The occupational therapist shall provide direction in developing the plan of treatment and shall periodically inspect the actual implementation of the plan. The occupational therapist shall cosign evaluation contributions and intervention documents prepared by the occupational therapy assistant.
- (4)**

 - (a)** When general supervision is allowed, the supervising occupational therapist shall except as provided under par. (am), have direct contact with the occupational therapy assistant and face-to-face contact with the client by every tenth session of occupational therapy and no less than one time once per calendar month. Direct contact with the occupational therapy assistant ~~is for the purpose of~~ shall include reviewing the progress and effectiveness of treatment. And Direct contact may occur simultaneously or separately from ~~the~~ face-to-face contact with the client.
 - (am)** When general supervision is allowed, and occupational therapy services are provided to a client once per calendar month or less frequently than once per calendar month, the supervising occupational therapist shall have direct contact with the occupational therapy assistant and face-to-face contact with the client no less than every other session of occupational therapy.
 - (b)** The occupational therapist shall record in writing a specific description of the supervisory activities undertaken for each occupational therapy assistant. The written record shall include client name, status and plan for each client discussed.
 - (c)** "Direct contact" means face-to-face communication or communication by means of telephone, electronic communication, or group conference.
- (5)** Close supervision is required for all rehabilitation, neonate, early intervention, and school system services provided by an entry level occupational therapy assistant. All other occupational therapy services provided by an occupational therapy assistant may be performed under general supervision, if the supervising occupational therapist determines, under the facts of the individual situation, that general supervision is appropriate using established professional guidelines.

on which the petition and proposed rule were submitted to the committee.

3. Following receipt of the petition and proposed rule submitted by the legislative council staff under subd. 2., the joint committee for review of administrative rules shall review the petition and proposed rule and may do any of the following:

a. Approve the agency's petition if the committee determines that the proposed rule would repeal an unauthorized rule.

b. Deny the agency's petition.

c. Request that the agency make changes to the proposed rule and resubmit the petition and proposed rule under subd. 1.

4. The committee shall inform the agency in writing of its decision as to the petition.

(c) If the joint committee for review of administrative rules approves a petition to repeal an unauthorized rule as provided in par. (b) 3. a., the agency shall promulgate the proposed rule by filing a certified copy of the rule with the legislative reference bureau under s. 227.20, together with a copy of the committee's decision.

SECTION 7. 227.29 of the statutes is created to read:

227.29 Agency review of rules and enactments. (1)

By March 31 of each odd-numbered year, each agency with any rules published in the code shall submit a report to the joint committee for review of administrative rules listing all of the following rules promulgated or otherwise administered by that agency:

(a) Unauthorized rules, as defined in s. 227.26 (4) (a), together with a description of the legislation that eliminated the agency's authority to promulgate any such rule.

(b) Rules for which the authority to promulgate has been restricted, together with a description of the legislation that restricted that authority.

(c) Rules that are obsolete or that have been rendered unnecessary, together with a description of why those rules are obsolete or have been rendered unnecessary.

(d) Rules that are duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction, together with a citation to or the text of any such statute, regulation, or ruling.

(e) Rules that the agency determines are economically burdensome.

(2) The report under sub. (1) shall also include all of the following:

(a) A description of the agency's actions, if any, to address each rule listed in the report. If the agency has not taken any action to address a rule listed in the report, the agency shall include an explanation for not taking action.

(b) A description of the status of each rule listed in the previous year's report not otherwise listed.

(c) If the agency determines that there is no rule as described under sub. (1) (a), (b), (c), (d), or (e), a statement of that determination.

(3) If an agency identifies an unauthorized rule under sub. (1) (a) and is not otherwise in the process of promulgating a rule that repeals the unauthorized rule, the agency shall, within 30 days after the agency submits the report, submit a petition to the legislative council staff under s. 227.26 (4) (b) 1. to repeal the unauthorized rule if the agency has not previously done so.

(4) (a) In this subsection, "enactment" means an act or a portion of an act that is required to be published under s. 35.095 (3) (a).

(b) Each agency shall review enactments to determine whether any part of an enactment does any of the following:

1. Eliminates or restricts the agency's authority to promulgate any rules promulgated or otherwise administered by that agency.

2. Renders any rules promulgated or otherwise administered by that agency obsolete or unnecessary.

3. Renders, for any reason, any rules promulgated or otherwise administered by that agency not in conformity with or superseded by a state statute, including due to statutory numbering or terminology changes in the enactment.

4. Requires or otherwise necessitates rule making by the agency.

(c) If an agency determines that any consequence specified in par. (b) 1. to 4. results from an enactment or part of an enactment, within 6 months after the applicable effective date for the enactment or part of the enactment, the agency shall do one or more of the following, as applicable, to address the consequence identified by the agency and notify the joint committee for review of administrative rules of its action:

1. Submit a statement of the scope of a proposed rule under s. 227.135 (2), unless the enactment requires otherwise or unless the agency submits a notice to the committee explaining why it is unable to submit the statement of scope within that time period and an estimate of when the agency plans to submit the statement of scope.

2. In the case of an affected rule that the agency determines is an unauthorized rule, as defined in s. 227.26 (4) (a), submit a petition to the legislative council staff under s. 227.26 (4) (b) 1.

3. In the case of a consequence specified under par. (b) 3. that can be addressed by the legislative reference bureau using its authority under s. 13.92 (4) (b), submit a request to the legislative reference bureau to use that authority.

SECTION 8. Initial applicability.

(1) The treatment of section 227.29 (4) of the statutes first applies to enactments published by the legislative