



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

Virtual, 4822 Madison Yards Way, Madison

Contact: Tom Ryan (608) 266-2112

September 17, 2024

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 June 11, 2024 (4-5)**
- C. Reminders: Conflicts of Interest, Scheduling Concerns
- D. Introductions, Announcements and Recognition
- E. Administrative Matters – Discussion and Consideration**
 - 1) Department, Staff and Board Updates
 - 2) Board Members – Term Expiration Dates
 - a. Black, Teresa L. – 7/1/2027
 - b. Donovan, Amber M. – 7/1/2027
 - c. Erickson, Terry – 7/1/2027
 - d. Hanson, Randi J. – 7/1/2027
 - e. Inda, Kari C. – 7/1/2026
 - f. Kearns, Christine – 7/1/2027
 - 3) Wis. Stat. s. 15.085(3)(b) – Biannual Meeting with the Medical Examining Board
- F. 9:30 A.M. Public Hearing – Clearinghouse Rule 24-050 on OT 1 to 5, Relating to Implementation of the Occupational Therapy Licensure Compact (6-19)**
 - 1) Review Public Hearing Comments and Respond to Clearinghouse Report
- G. Legislative and Policy Matters – Discussion and Consideration
- H. Administrative Rule Matters – Discussion and Consideration (20-21)**
 - 1) Pending or Possible Rulemaking Projects
- I. 2024 National Board for Certification in Occupational Therapy (NBCOT) Occupational Therapy State Regulatory Leadership Forum (22)**

- J. 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) Public Health Emergencies
 - 11) Administrative Rule Matters
 - 12) Liaison Reports
 - 13) Board Liaison Training and Appointment of Mentors
 - 14) Informational Items
 - 15) Division of Legal Services and Compliance (DLSC) Matters
 - 16) Presentations of Petitions for Summary Suspension
 - 17) Petitions for Designation of Hearing Examiner
 - 18) Presentation of Stipulations, Final Decisions and Orders
 - 19) Presentation of Proposed Final Decisions and Orders
 - 20) Presentation of Interim Orders
 - 21) Petitions for Re-Hearing
 - 22) Petitions for Assessments
 - 23) Petitions to Vacate Orders
 - 24) Requests for Disciplinary Proceeding Presentations
 - 25) Motions
 - 26) Petitions
 - 27) Appearances from Requests Received or Renewed
 - 28) Speaking Engagements, Travel, or Public Relation Requests, and Reports

K. 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 440.205, 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.).

- L. 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

M. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

- N. Vote on Items Considered or Deliberated Upon in Closed Session if Voting is Appropriate
- O. Open Session Items Noticed Above Not Completed in the Initial Open Session
- P. Delegation of Ratification of Examination Results and Ratification of Licenses and Certificates

ADJOURNMENT

NEXT MEETING: DECEMBER 17, 2024

**ORAL INTERVIEW OF CANDIDATES FOR LICENSURE
VIRTUAL/TELECONFERENCE**

10:30 A.M. OR IMMEDIATELY FOLLOWING FULL BOARD MEETING

CLOSED SESSION – Reviewing Applications and Conducting Oral Interviews of **Zero (0)** (at the time of agenda publication) Candidates for Licensure and Any Additional Examinations
Added After Agenda Preparation – Teresa Black

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 virtually unless otherwise indicated. In-person meetings are typically conducted at 4822 Madison Yards Way, Madison, Wisconsin, unless an alternative location is listed on the meeting notice. In order to confirm a meeting or to request a complete copy of the board’s agenda, please visit the Department website at <https://dps.wi.gov>. 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. Requests for interpreters for the hard of hearing, or other accommodations, are considered upon request by contacting Affirmative Action Officer, or reach the Meeting Staff by calling 608-267-7213.

**VIRTUAL/TELECONFERENCE
OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD
MEETING MINUTES
JUNE 11, 2024**

PRESENT: Teresa Black, Amber Donovan, Terrence Erickson, Randi Hanson, Kari Inda, Christine Kearns

STAFF: Tom Ryan, Executive Director; Jameson Whitney, Legal Counsel; Nilajah Hardin, Administrative Rules Coordinator; Ashley Sarnosky, Board Administration Specialist; and other Department staff

CALL TO ORDER

Teresa Black, Chairperson, called the meeting to order at 9:30 a.m. A quorum was confirmed with six (6) board members present.

ADOPTION OF AGENDA

MOTION: Randi Hanson moved, seconded by Kari Inda, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF MARCH 12, 2024

MOTION: Terrence Erickson moved, seconded by Christine Kearns, to approve the Minutes of March 12, 2024, as published. Motion carried unanimously.

CLOSED SESSION

MOTION: Terrence 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.). Teresa Black, 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; Amber Donovan-yes; Terry Erickson-yes; Randi Hanson-yes; Kari Inda-yes; Christine Kearns-yes. Motion carried unanimously.

The Board convened into Closed Session at 9:56 a.m.

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

Case Closings

23 OTB 003 – B.L.

MOTION: Randi Hanson moved, seconded by Chrstine Kearns, to close DLSC Case Number 23 OTB 003, against B.L., for no violation. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Christine Kearns moved, seconded by Terrence Erickson, to reconvene in Open Session. Motion carried unanimously.

The Board reconvened to Open Session at 10:00 a.m.

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

MOTION: Terrence Erickson moved, seconded by Amber Donovan, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

DELEGATION OF RATIFICATION OF LICENSES AND CERTIFICATES

MOTION: Christine Kearns 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.

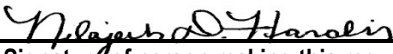
ADJOURNMENT

MOTION: Christine Kearns moved, seconded by Amber Donovan, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:03 a.m.

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Nilajah Hardin Administrative Rules Coordinator		2) Date when request submitted: 09/05/24 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 Therapists Affiliated Credentialing Board			
4) Meeting Date: 09/17/24	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 – Clearinghouse Rule 24-050 on OT 1 to 5, Relating to Implementation of the Occupational Therapy Licensure Compact 1. Review Public Hearing Comments and Respond to Clearinghouse Report	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <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: The Board will hold a Public Hearing on this rule as required by the rulemaking process.			
11) Authorization			
 Signature of person making this request		09/05/24 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 RULEMAKING	:	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 1.01 (1), 2.02 (9), 5.02 (3), (4), (5), (6), (8), (9), (12), and (15) and create 1.02 (6g), (6r), (14e), (14m), (14s), (27), 2.09 and 3.03 (3) (Note), relating to implementation of the Occupational Therapy Licensure Compact.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Subchapter XII of ch. 448, Stats.

Statutory authority: Sections 15.085 (5) (b) and 448.9875 (3), Stats.

Explanation of agency authority:

Section 15.085 (5) (b), Stats., provides that each 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 448.9875 (3), Stats., provides that “[t]he examining board may, by rule, require an individual seeking a compact privilege to meet a jurisprudence requirement in accordance with s. 448.987 (4) (a) 9., if such a requirement is imposed by the examining board under s. 448.964 in order to obtain a license under s. 448.963.”

Related statute or rule: None.

Plain language analysis:

The Occupational Therapists Affiliated Credentialing Board conducted a comprehensive evaluation of its rules to implement the Occupational Therapy Licensure Compact to ensure clarity and consistency with applicable Wisconsin statutes. The following updates were made:

- Created definitions of “occupational therapist,” “occupational therapist assistant,” and “occupational therapy.”

- Created definitions of “compact,” “compact privilege,” and identify the requirements for obtaining a compact privilege, including a requirement that an individual seeking a compact privilege successfully complete a jurisprudence examination.
- Created a definition of a “health care provider” to include an occupational therapist or an occupational therapy assistant licensed under ch. 448 holds a compact privilege under subch. XI of ch. 448.
- Amended the definition of “supervisor” to specify it includes a person holding an occupational therapist compact privilege granted by the Board but does not include a person holding a temporary license.
- Amended the unprofessional conduct requirements in s. OT 5.02 to also apply to those licensed under compact privileges as needed.

Summary of, and comparison with, existing or proposed federal regulation: None.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule: N/A.

Comparison with rules in adjacent states:

Illinois: Illinois is not a member state of the Occupational Therapy Licensure Compact.

Iowa: Iowa is a member state of the Occupational Therapy Licensure Compact and is actively issuing compact privileges. Rules of the Iowa Board of Physical and Occupational Therapy address issuing a compact privilege and the practice of occupational therapy under a compact privilege [645 Iowa Administrative Code Section 200.3].

Michigan: Michigan is not a member state of the Occupational Therapy Licensure Compact.

Minnesota: Minnesota is not a member state of the Occupational Therapy Licensure Compact.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing subch. XII of ch. 448, Stats., which ratifies the Occupational Therapy Licensure Compact, and conducting a comprehensive evaluation and update of the Occupational Therapy Examining Board’s rules to implement the Compact.

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

The proposed rule was 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 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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-2112.

Agency contact person:

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing, held on September 17, 2024, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. OT 1.01 is amended to read:

OT 1.01 The rules in this chapter are adopted by the occupational therapists affiliated credentialing board pursuant to the authority of ss. 15.08 (5) (b), 227.11 (2), 448.965, and subch. XII of ch. 448, Stats., to govern the license and regulation of occupational therapists and occupational therapy assistants.

SECTION 2. OT 1.02 (6g), (6r), (11m), (14e), (14m), (14s) and (27) are created to read:

OT 1.02 (6g) “Compact” means the occupational therapy licensure compact under s. 448.987, Stats.

(6r) “Compact privilege” has the meaning given in s. 448.987 (2) (d), Stats.

(11m) “Health care provider” has the meaning given in s. 155.01 (7), Stats.

(14e) “Occupational therapist” has the meaning given in s. 448.96 (4), Stats.

(14m) “Occupational therapy assistant” has the meaning given in s. 448.96 (6), Stats.

(14s) “Occupational therapy compact commission” or “commission” has the meaning given in s. 448.987 (2) (s), Stats.

(27) “Supervisor” means a person holding a regular license as an occupational therapist, or an occupational therapist with compact privilege granted by the board, who is competent to coordinate, direct, and inspect the accomplishments of another occupational therapist or occupational therapy assistant. This definition does not apply to a person holding a temporary license issued under ch. OT 2.

SECTION 3. OT 2.09 is created to read:

OT 2.09 Compact privilege requirements. Each person applying for a compact privilege shall submit to the board all of the following:

- (1) A completed application form provided by the board.
- (2) The fee specified in s. 448.9875 (3) (c), Stats.
- (3) Evidence of successful completion of the examination specified in s. OT 2.03 (1).

Note: Application instructions for compact privilege may be obtained from the Department of Safety and Professional Services’ website at <http://dsps.wi.gov>.

SECTION 4. OT 3.03 (Note) is created to read:

OT 3.03 (3) (Note) Application instructions for renewal may be obtained from the Department of Safety and Professional Services’ website at <http://dsps.wi.gov>.

SECTION 5. OT 5.02 (3), (4), (5), (6), (8), (9), (12), and (15) are amended to read:

- (3) Knowingly making or presenting or causing to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other item in connection with any application for license or compact privilege.
- (4) Practicing fraud, forgery, deception, collusion, or conspiracy in connection with any examination for license or compact privilege.
- (5) Giving, selling, buying, bartering, or attempting to give, sell, buy, or barter any license or compact privilege.
- (6) Engaging or attempting to engage in practice under any license or compact privilege under any given name or surname other than that under which originally licensed, ~~or~~ registered, or granted compact privilege to practice in this or any other state
- (8) Practicing or attempting to practice under any license or compact privilege when unable to do so with reasonable skill and safety to clients.
- (9) Practicing or attempting to practice under any license or compact privilege beyond the scope of that license or compact privilege.
- (12) Knowingly making any false statement, written or oral, in practicing under any license or compact privilege, with fraudulent intent; or obtaining or attempting to obtain any professional fee or compensation of any form by fraud or deceit.

- (15) Having a license, compact privilege, certificate, permit, registration, or other practice credential granted by another state or by any agency of the federal government to practice occupational therapy, which becomes limited, restricted, suspended, or revoked, or having been subject to other adverse action by the state licensing authority or by an agency of the federal government including the denial or limitation of an original credential, or the surrender of a credential, whether or not accompanied by findings of negligence or unprofessional conduct.

SECTION 6. 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 June 18, 2024
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) OT 1 to 5	
4. Subject Implementation of the Occupational Therapy Licensure Compact	
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 s. 20.165 (1) (g)
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 checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input 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 checked="" 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 These rules implement the statute changes from 2021 Wisconsin Act 123.	
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. N/A	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. N/A	
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) DSPS estimates a total of \$15,600 in one-time costs and \$10,000 in annual costs for staffing and an indeterminate one-time IT impact to implement the rule. The estimated one-time staffing need for .4 limited term employee (LTE) is for staff to undertake such tasks as sites and forms updates, training on new requirements, assisting with temporary increases in inquiries, and providing board guidance. The estimated annual staffing need for .1 full time employee (FTE) is to accommodate additional applications and legal processing due to the implementation of the compact. The one-time and annual estimated costs cannot be absorbed in the currently appropriated agency budget.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefits of implementing this rule are that the Occupational Therapists Affiliated Credentialing Board's section of the Administrative Code will be aligned with Wisconsin State Statutes.	
16. Long Range Implications of Implementing the Rule The long range implications of implementing this rule is clear requirements for practicing occupational therapy in Wisconsin under compact privileges.	
17. Compare With Approaches Being Used by Federal Government None.	

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)
Illinois: Illinois is not a member state of the Occupational Therapy Licensure Compact.

Iowa: Iowa is a member state of the Occupational Therapy Licensure Compact and is actively issuing compact privileges. Rules of the Iowa Board of Physical and Occupational Therapy address issuing a compact privilege and the practice of occupational therapy under a compact privilege [645 IAC 200.3].

Michigan: Michigan is not a member state of the Occupational Therapy Licensure Compact.

Minnesota: Minnesota is not a member state of the Occupational Therapy Licensure Compact.

19. Contact Name Nilajah Hardin, Administrative Rules Coordinator	20. Contact Phone Number (608) 267-7139
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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 **24-050**

AN ORDER to amend OT 1.01 (1), 2.02 (9), 5.02 (3), (4), (5), (6), (8), (9), (12), and (15); and create OT 1.02 (6g), (6r), (14e), (14m), (14s), and (27), 2.09, and 3.03 (3) (Note), relating to implementation of the Occupational Therapy Licensure Compact.

Submitted by **OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD**

06-18-2024 RECEIVED BY LEGISLATIVE COUNCIL.

07-15-2024 REPORT SENT TO AGENCY.

MSK:PW

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



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 24-050

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

1. Statutory Authority

In the rule summary’s listing of statutory authority, consider citing s. 227.11 (2) (a) (intro.), Stats., as additional statutory authority, for consistency with the authority cited in the current text of ss. OT 1.01, 2.01, and 5.01. Alternatively, the current text of ss. OT 1.01, 2.01, and 5.01 could be amended to strike the respective citations to s. 227.11 (2), Stats., as the other citations in those provisions provide sufficient rulemaking authority for the subject matter addressed in the rules.

2. Form, Style and Placement in Administrative Code

a. The following comments apply in the introductory clause’s list of affected provisions for the proposed rule:

- (1) Remove the “(1)” after “OT 1.01”.
- (2) Delete “2.02 (9)” because this provision does not exist and does not appear to be referring to any other provision that is amended in the proposed rule.
- (3) Add “(11m)” in the list following “create 1.02”.

b. In s. OT 1.01, the citation to s. 448.965 is shown with underscoring. Accordingly, it appears as if s. 448.965, Stats., is being added to s. OT 1.01 although it already exists in the current text of that provision. The underscoring should be removed. [s. 1.04 (4) (a), Manual.]

c. In s. OT 5.02 (6), the first instance of the phrase “or compact privilege” should be shown with underscoring. Also, the full text of the current provision should be shown. In the proposed rule, the second sentence of the current text is not included, but should be shown. [s. 1.04 (4) (a), Manual.]

d. In the introductory clause for the proposed rule, the list of affected provisions should be updated to reflect any changes made in response to these comments.

3. Conflict With or Duplication of Existing Rules

a. Consider the relationship between how “health care provider” is defined in proposed s. OT 1.02 (11m) with how the term is used in the current text of s. OT 2.03 (2) (e). Is it the intent of s. OT 2.03 (2) (e) that an applicant would be considered to have practiced occupational therapy if the applicant performed service in administrative positions for other licensed providers (which is what the s. OT 1.02 (11m) definition suggests)? Or, more likely, is it the intent of s. OT 2.03 (2) (e) that the applicant had performed service in an administrative position for a health care entity? In s. OT 2.03 (e), the term “health care provider” is used in a way that suggests it is intended to mean a health care entity because it is used in the same phrase and as an alternative to “governmental bodies”. If so, the term “health care providers”, as used in s. OT 2.03 (2) (e), should be revised to reflect that the applicant had performed service in administrative positions for health care entities, rather than as a “health care provider” as defined in proposed s. OT 1.02 (11m).

b. Consider whether the term “health care professionals” used in the current text of s. OT 4.03 (2), (3) (f) and (g), and (4) (d) should be revised to the newly defined term “health care provider” or “health care providers”.

c. Consider how the definition of “supervisor” proposed in s. OT 1.02 (27) interacts with how “supervisor” is described in the definition of “supervision” in the current text of s. OT 1.02 (26). For instance, in s. OT 1.02 (26), a supervisor is defined in relation to the person that is being supervised by indicating that the supervisor possesses “skill, competence, experience, education, credentials, or authority in excess of those possessed” by the supervisee. However, the proposed definition of “supervisor” in s. OT 1.02 (27) defines a supervisor as possessing a certain level of competence without specifically referencing the competence or other qualities of the supervisee. Consider whether the discussion of what a supervisor is in s. OT 1.02 (26) belongs in the definition of supervisor rather than the definition of supervision.

d. Consider whether the definition of “supervisor”, proposed in s. OT 1.02 (27), should include the supervision of non-licensed personnel, which is covered in the current text of s. OT 4.05. Also, the definition, by including “another occupational therapist”, suggests that an occupational therapist may be supervised by another occupational therapist, but the rules appear to only contemplate an occupational therapist supervisor who supervises an occupational therapy assistant or non-licensed personnel.

e. Consider whether the definition of “supervisor” proposed in s. OT 1.02 (27) should include an occupational therapy assistant. The current text of s. OT 4.05 permits an occupational therapy assistant to supervise non-licensed personnel.

4. Adequacy of References to Related Statutes, Rules and Forms

a. In the board’s summary for the proposed rule, consider including s. OT 2.03 in the “Related statute or rule” section, because it satisfies the condition set out in s. 448.9875 (3), Stats. That provision allows the examining board to require an individual seeking a compact privilege to meet a jurisprudence requirement.

b. In s. OT 1.01, the general citation to subch. XII of ch. 448, Stats., should be revised to more specifically cite s. 448.9875 (3), Stats.

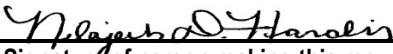
- c. The following comments apply in s. OT 1.02 (27), defining the term “supervisor”:
 - (1) Consider spelling out what is meant by “regular license”. For example, consider referencing the statute under which a person was granted the license, likely s. 448.963 (2), Stats.
 - (2) Consider referencing the statute under which a person obtains a compact privilege.
 - (3) Consider specifically referencing s. OT 2.07 in the final sentence, rather than generally referencing ch. OT 2.
- d. The proposed rule should be revised to amend the current text of s. OT 2.01, in order to add a specific reference to s. 448.9875 (3), Stats.
- e. In s. OT 2.09 (2), the statute cited does not relate to fees. Consider editing the proposed rule to reference “448.987 (3) (c)” or “448.9875 (2)”.
- f. In s. OT 2.09 (3), consider specifying which exam is referenced from s. OT 2.03 (1). Section OT 2.03 (1) addresses both a certification examination and a statutes and rules examination. It appears that the intent is to require the statutes and rules examination; if so, that should be specified.

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. In the board’s summary for the proposed rule, under the “Plain language analysis” section, the description should be revised to specify that the definition of “supervisor” was created, rather than amended. Also, in the health care provider bullet point, there appears to be a missing “who” between “ch. 448” and “holds”, and the reference to the subchapter should be changed to “subch. XII”.
- b. In s. OT 2.09 (1), consider whether the phrase “provided by the board” is necessary, especially if the form is obtained from the department.

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Nilajah Hardin Administrative Rules Coordinator		2) Date when request submitted: 09/05/24 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 Therapists Affiliated Credentialing Board			
4) Meeting Date: 09/17/24	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. Pending or Possible Rulemaking Projects	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <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: Attachments: 1. Rule Project Chart Pending Rule Project Page: https://dsps.wi.gov/Pages/RulesStatutes/PendingRules.aspx			
11) Authorization			
 Signature of person making this request		09/05/24 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
Rule Projects (updated 09/05/24)**

Clearinghouse Rule Number	Scope #	Scope Expiration	Code Chapter Affected	Relating clause	Current Stage	Next Step
24-050	072-22	02/22/2025	OT 1 to 5	Implementation of the Occupational Therapy Licensure Compact (Emergency Rule)	Emergency Rule Draft Approved by the Governor on 09/21/23; Rule Paused, Proceeding with Permanent Rule Only	N/A
24-050	072-22	02/22/2025	OT 1 to 5	Implementation of the Occupational Therapy Licensure Compact (Permanent Rule)	Public Hearing Held at 09/17/24 Meeting	Drafting Final Rule and Legislative Report

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

AGENDA REQUEST FORM

Name and title of person submitting the request: Teri Black, Board Chair		2) Date when request submitted: 8/30/2024 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 Therapists Affiliated Credentialing Board			
4) Meeting Date: 9/17/2024	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? 2024 National Board for Certification in Occupational Therapy (NBCOT) Occupational Therapy State Regulatory Leadership Forum	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if applicable: N/A	
10) Describe the issue and action that should be addressed: Teri Black will lead a discussion about the NBCOT OT State Regulatory Leadership Forum.			
11) Authorization			
Signature of person making this request		Date	
Supervisor (Only required for post agenda deadline items)		Date	
Executive Director signature (Indicates approval for post agenda deadline items)		Date	
Directions for including supporting documents: 1. This form should be saved with any other documents submitted to the Agenda Items folders. 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.			