

STATE OF WISCONSIN  
OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD

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IN THE MATTER OF RULEMAKING : NOTICE OF TIME PERIOD  
PROCEEDINGS BEFORE THE : FOR COMMENTS FOR THE  
OCCUPATIONAL THERAPISTS : ECONOMIC IMPACT ANALYSIS  
AFFILIATED CREDENTIALING BOARD :

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NOTICE IS HEREBY GIVEN of the time period for public comment on the economic impact of this proposed rule of the Occupational Therapists Affiliated Credentialing Board relating to licensure requirements, including how this proposed rule may affect businesses, local government units, and individuals. The comments will be considered when the Department of Safety and Professional Services prepares the Economic Impact Analysis pursuant to § 227.137. Written comments may be submitted to:

Kassandra Walbrun, Administrative Rules Coordinator  
Division of Policy Development  
Department of Safety and Professional Services  
PO Box 8366  
Madison, WI 53708-8366  
[DSPSAdminRules@wisconsin.gov](mailto:DSPSAdminRules@wisconsin.gov)

**The deadline for submitting economic impact comments is April 12, 2021.**

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.

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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:**

Kassandra Walbrun, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone (608) 261-4463; email at DSPSAdminRules@wisconsin.gov.

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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.

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(END OF TEXT OF RULE)

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