

**STATE OF WISCONSIN  
OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD**

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**IN THE MATTER OF RULEMAKING :  
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE  
OCCUPATIONAL THERAPISTS : CR 22-028  
AFFILIATED CREDENTIALING :  
BOARD :**

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**I. THE PROPOSED RULE:**

The proposed rule, including the analysis and text, is attached.

**II. REFERENCE TO APPLICABLE FORMS: N/A**

**III. FISCAL ESTIMATE AND EIA:**

The Fiscal Estimate and EIA is attached.

**IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:**

- Section OT 3.06 (3) is revised to specify that the continuing education points obtained through means other than professional development activities in Table 3.06 should be in courses, programs, or other educational activities related to the licensee's practice.
- Table OT 3.06 is revised to include webinars approved by the Wisconsin Occupational Therapists Association (WOTA) and/or the American Occupational Therapists Association (AOTA), initial certification in specified subjects, and specialty certifications from AOTA in the list of professional development activities for continuing education credit.

**V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:**

The Occupational Therapists Affiliated Credentialing Board held a public hearing on June 7, 2022. The following people either testified at the hearing, or submitted written comments:

- Peter Welch, Wisconsin Occupational Therapists Association

The Occupational Therapists Affiliated Credentialing Board summarizes the comments received either by hearing testimony or by written submission as follows:

- Mr. Welch submitted written comments on behalf of the WOTA. They support the proposed changes, except for the identification of the AOTA as a continuing education provider. They noted that striking AOTA from

the rule would not prohibit them from offering valid continuing education in Wisconsin.

The Occupational Therapists Affiliated Credentialing Board explains modifications to its rule-making proposal prompted by public comments as follows: No further changes were made.

**VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

All of the recommendations suggested in the Clearinghouse Report have been accepted in whole.

**VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS: N/A**

STATE OF WISCONSIN  
OCCUPATIONAL THERAPISTS  
AFFILIATED CREDENTIALING BOARD

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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 22-028)

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PROPOSED ORDER

An order of the Occupational Therapists Affiliated Credentialing Board to **amend** ch. OT 3.06 (3) and 3.06 (3) (table) lines (b) and (f); and to create OT 3.06 (3) (table) line (fm), relating to continuing education.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:**

Section 440.03 (4m), Stats.

**Statutory authority:**

Sections 15.085 (5) (b) and 448.965 (1) (b), 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 (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).”

**Related statute or rule:** None.

**Plain language analysis:**

- Section OT 3.06 (3) is revised to specify that the continuing education points obtained through means other than professional development activities in Table 3.06 should be in courses, programs, or other educational activities related to the licensee’s practice.
- Table OT 3.06 is revised to include webinars approved by the Wisconsin Occupational Therapy Association (WOTA), the American Occupational Therapy Association (AOTA), and National Board for Certification in Occupational Therapy (NBCOT), initial certification in specified subjects, and specialty certifications from

AOTA in the list of professional development activities for continuing education credit.

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

**Comparison with rules in adjacent states:**

**Illinois:** 68 Ill. Admin. Code 1315.145 b) specifies the requirements for continuing education courses for occupational therapists to be approved. All CE activities shall be relevant to the advancement, extension, and enhancement of professional clinical skills and scientific knowledge in the practice of occupational therapy; provide experiences that contain scientific integrity, relevant subject matter and course materials; and be developed and presented by persons with education and/or experience in the subject matter. Subsection c) specifies other activities from which CE may be earned, and subsection d) names approved sponsors of CE programs.

**Iowa:** 645 IAC 207.3(1) and (2) specify general and specific criteria for approval of continuing education activities for occupational therapists. General criteria include that the program constitutes an organized program of learning which contributes directly to the professional competency of the licensee; that it pertains to subject matters which integrally relate to practice; that it is conducted by individuals who are qualified by education, training, and experience; that it fulfills stated program goals and/or objectives; and that it provides proof of attendance to licensees. Specific criteria expands into what types of activities and what subjects generally are and are not acceptable for continuing education credit.

**Michigan:** Mich Admin Code, R 338.1252 provides the requirements for acceptable continuing education for occupational therapists and occupational therapists assistants, including format and subject matter requirements. Subsection (3) provides a table of acceptable continuing education activities along with the maximum allowable hours of credit that can be completed for each activity.

**Minnesota:** The Minnesota Statutes provide standards for determining qualified continuing education activities and define activities that qualify for continuing education contact hours (Minnesota Statutes 2017, section 148.6443, Subds. 2. and 3.). To qualify for continuing education credit, an activity must constitute an organized program of learning; it must reasonably be expected to advance the knowledge and skills of the practitioner; it must pertain to subjects directly related to the practice of occupational therapy; it must be conducted by a sponsor approved by the American Occupational Therapy Association or by individuals who should be considered experts on the topic due to their education, training, and experience; and it must be presented by a sponsor who has a means to verify attendance and maintain records for three years. Subd. 3. defines acceptable means of obtaining continuing education credit through various courses and activities and the maximum allowable hours that can be obtained through any particular activity.

**Summary of factual data and analytical methodologies:**

The proposed rules were developed by reviewing the provisions of ch. OT 3 to ensure consistency with current standards for drafting style and format and applicable Wisconsin statutes.

**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 are 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:**

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-267-7139; 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 on June 7, 2022 at 9:30 a.m., to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. OT 3.06 (3) is amended to read:

**OT 3.06 (3)** At least 12 points of the continuing education required under subs. (1) and (2) shall be accumulated through 2 or more professional development activities listed under Table OT 3.06 that are related to occupational therapy. The remainder of the continuing education required under subs. (1) and (2) shall be accumulated through courses, programs, or other educational activities related to the licensee’s practice. In Table OT 3.06, “contact hour” means not less than 50 minutes of actual professional activity.

SECTION 2. OT 3.06 (3) (table) lines (b) and (f) are amended and line (fm) is created to read:

PROFESSIONAL DEVELOPMENT ACTIVITIES	PROFESSIONAL DEVELOPMENT POINTS
(b) Attendance at seminars, workshops, lectures, professional conferences, interactive on-line courses, <del>and</del> video courses, <u>and webinars approved by the Wisconsin Occupational Therapy Association, the American Occupational Therapy Association, or National Board for Certification in Occupational Therapy.</u>	1 point per contact hour of attendance.
(f) Initial completion of <del>specialty</del> board certification in <del>occupational therapy</del> , including certification in <del>neurorehabilitation, pediatrics, hand therapy, gerontology, driver rehabilitation, advanced practice, physical rehabilitation, mental health, pediatrics, or gerontology</del> from the American Occupational Therapy Association, <u>or certification in neurorehabilitation, pediatrics, hand therapy, neuro-developmental treatment, case management, and rehabilitation counseling.</u>	12 points.
(fm) Specialty certification in low vision; driving and community mobility; school system; environmental modification; or feeding, eating, and swallowing from the American Occupational Therapy Association.	10 points

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.

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 (END OF TEXT OF RULE)  
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This Proposed Order of the Occupational Therapists Affiliated Credentialing Board is approved for submission to the Governor and Legislature.

Dated August 9, 2022

Agency   
 Vice Chairperson  
 Occupational Therapists Affiliated  
 Credentialing Board

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original   <input type="checkbox"/> Updated   <input type="checkbox"/> Corrected</p>	<p>2. Date December 16, 2021</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) OT 3</p>	
<p>4. Subject Continuing Education</p>	
<p>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</p>	<p>6. Chapter 20, Stats. Appropriations Affected 20.165(1)(g)</p>
<p>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</p>	
<p>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 <b>(if checked, complete Attachment A)</b></p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p>	
<p>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</p>	
<p>11. Policy Problem Addressed by the Rule The proposed rule revises the Board's rules related to continuing education and what courses, webinars, and certifications are eligible for continuing education credit.</p>	
<p>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's website for 14 days to solicit economic impact comments from business, local governmental units, and individuals. No comments were received.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. The proposed rule was posted on the department's website for 14 days to solicit economic impact comments from local governmental units. No comments were received.</p>	
<p>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) A one time cost to the department of \$510 is anticipated and can be absorbed within the agency's budget.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit to implementing the rule is to update the criteria for courses and activities that are eligible for continuing education credit.</p>	
<p>16. Long Range Implications of Implementing the Rule The long range implication of implementing the rule is to update the criteria for courses and activities that are eligible for continuing education credit.</p>	
<p>17. Compare With Approaches Being Used by Federal Government None</p>	
<p>18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)</p>	

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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19. Contact Name Jameson Whitney, Attorney	20. Contact Phone Number (608) 266-8098
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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**

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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)

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

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

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5. Describe the Rule's Enforcement Provisions

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

- Yes    No
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