



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

Virtual, 4822 Madison Yards Way, Madison

Contact: Tom Ryan (608) 266-2112

December 6, 2022

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 September 13, 2022 (4-5)**
- C. Reminders: Conflicts of Interest, Scheduling Concerns
- D. Introductions, Announcements and Recognition – Discussion and Consideration
- E. Administrative Matters – Discussion and Consideration**
 - 1) Department, Staff and Board Updates
 - 2) 2023 Proposed Meeting Dates
 - 3) Board Members – Term Expiration Dates
 - a. Black, Teresa L. – 7/1/2023
 - b. Erickson, Terry – 7/1/2023
 - c. Hanson, Randi J. – 7/1/2023
 - d. Inda, Kari C. – 7/1/2026
 - e. O’Brien, Laura M. – 7/1/2019
 - 4) Wis. Stat. s. 15.085(3)(b) – Biannual Meeting with the Medical Examining Board
- F. Occupational Therapy (OT) Compact - Discussion and Consideration (6)**
- G. Administrative Rule Matters – Discussion and Consideration (7)**
 - 1) Drafting Proposals: OT 1 to 5, Relating to Implementation of the Occupational Therapy Licensure Compact **(8-32)**
 - 2) Pending and Possible Rulemaking Projects **(33)**
- H. Public Agenda Request: Establishing an Examining Board of Occupational Therapy in DSPPS – Discussion and Consideration (34)**
- I. Legislative and Policy Matters – Discussion and Consideration

J. COVID-19 – Discussion and Consideration

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

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

L. Public Comments

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

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

- 1) **Monitoring Matters**
 - a. Thomas Rothery, OTR/L – Requesting Full Licensure **(35-51)**

N. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Order

- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

O. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

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

ADJOURNMENT

NEXT MEETING: MARCH 14, 2023 (TENTATIVE)

**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 – Laura O’Brien & 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://dsps.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
SEPTEMBER 13, 2022**

PRESENT: Teresa Black (*arrived at 9:54 a.m.*), Terrence Erickson, Randi Hanson, Kari Inda, Laura O'Brien

STAFF: Tom Ryan, Executive Director; Jameson Whitney, Legal Counsel; Nilajah Hardin, Administrative Rules Coordinator; Katlin Schwartz, Bureau Assistant; Dialah Azam, Bureau Assistant; and other Department staff

CALL TO ORDER

Laura O'Brien, Chairperson, called the meeting to order at 9:35 a.m. A quorum was confirmed with four (4) board members present.

ADOPTION OF AGENDA

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

APPROVAL OF MINUTES OF JUNE 7, 2022

MOTION: Randi Hanson moved, seconded by Terrence Erickson, to approve the Minutes of June 7, 2022 as published. Motion carried unanimously.

**PRELIMINARY PUBLIC HEARING ON STATEMENT OF SCOPE - SS 072-022 (OT 1 TO 5),
RELATING TO IMPLEMENTATION OF THE OCCUPATIONAL THERAPY LICENSURE
COMPACT**

Review and Respond to Preliminary Public Hearing Comments

MOTION: Randi Hanson moved, seconded by Terrence Erickson, to affirm the Board has provided an opportunity to receive public comments concerning Scope Statement (SS) 072-22 on OT 1 to 5 relating to Implementation of the Occupational Therapy Licensure Compact. Additionally, after consideration of all public comments and feedback the Board approves SS 072-22 for implementation. Motion carried unanimously.

OCCUPATIONAL THERAPY (OT) LICENSING COMPACT UPDATE

MOTION: Randi Hanson moved, seconded by Kari Inda, to post the AOTA OT Licensure Compact website link to the Board's webpage. Motion carried unanimously.

(Teresa Black arrived at 9:54 a.m.)

ADMINISTRATIVE RULE MATTERS

Final Rule Draft: OT 1 to 6, Relating to Telehealth

MOTION: Randi Hanson moved, seconded by Teresa Black, to designate Teresa Black to approve the Legislative Report and Draft for Clearinghouse Rule 21-033 (OT 1 to 6), relating to Telehealth, for submission to the Governor's Office and Legislature. Motion carried unanimously.

STAKEHOLDER FEEDBACK REQUEST FROM THE AMERICAN OCCUPATIONAL THERAPY ASSOCIATION (AOTA) ON THE AOTA MODEL OCCUPATIONAL THERAPY ACT

MOTION: Teresa Black moved, seconded by Randi Hanson, to designate the Chairperson to provide feedback on the Board's behalf to the American Occupational Therapy Association (AOTA) regarding the AOTA Model Occupational Therapy Act. Motion carried unanimously.

DELEGATION OF RATIFICATION OF LICENSES AND CERTIFICATES

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

ADJOURNMENT

MOTION: Terrence Erickson moved, seconded by Kari Inda, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:42 a.m.

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Teri Black		2) Date when request submitted: 11/21/2022 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: 12/6/2022	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Occupational Therapy Compact – Board Discussion	
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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	9) Name of Case Advisor(s), if applicable: N/A	
10) Describe the issue and action that should be addressed: Board Member Teri Black has requested that the Board discuss matters related to the Occupational Therapy Compact.			
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.			

**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: 11/22/22 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: 12/06/22	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. Drafting Proposals: OT 1 to 5, Relating to Implementation of the Occupational Therapy Licensure Compact 2. 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. Scope Statement – OT 1 to 5 2. Wis. Admin Code. Chs. OT 1 to 5 3. 2021 WI Act 123 4. Rule Project Chart Wis. Stats. ch. 448 subch. VII : https://docs.legis.wisconsin.gov/statutes/statutes/448/vii Wis. Stats. ch. 448 subch. XII: https://docs.legis.wisconsin.gov/statutes/statutes/448/xii			
11) Authorization			
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.			

STATEMENT OF SCOPE

OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD

Rule No.: OT 1 to 5

Relating to: Implementation of the Occupational Therapy Licensure Compact

Rule Type: Both Permanent and Emergency

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

2021 Wisconsin Act 123, Section 23 (1) provides that:

“The occupational therapists affiliated credentialing board and the department of safety and professional services may promulgate emergency rules under s. 227.24 necessary to implement this act.

Notwithstanding s. 227.24 (1) (c) and (2), emergency rules promulgated under this subsection remain in effect until May 1, 2024, or the date on which permanent rules take effect, whichever is sooner.

Notwithstanding s. 227.24 (1) (a) and (3), neither the board nor the department is required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare or provide a finding of emergency for a rule promulgated under this subsection.”

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

The objective of this rule is to implement the statutory changes from 2021 Wisconsin Act 123.

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

The Board intends to update the Administrative Code Chapters OT 1 to 5 to bring them into alignment with 2021 Wisconsin Act 123. An alternative would be to not revise the code to reflect these new requirements, which would create confusion and a lack of clarity for stakeholders as to what is required of occupational therapists and the board as it relates to the new statutory requirements.

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

Section 15.085 (5) (b), Stats. states that “[Each affiliated credentialing board] shall 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.”

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

Approximately 120 hours

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

Wisconsin licensed occupational therapists and occupational therapy assistants.

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

None.

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

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

Contact Person: Nilajah Hardin, (608) 267-7139, DSPSAdminRules@wisconsin.gov

Approved for publication:



Authorized Signature

July 15, 2022

Date Submitted

Approved for implementation:



Authorized Signature

October 5, 2022

Date Submitted

Chapter OT 1

DEFINITIONS

OT 1.01 Authority and purpose.

OT 1.02 Definitions.

OT 1.01 Authority and purpose. The rules in this chapter are adopted by the occupational therapists affiliated credentialing board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to govern the licensure and regulation of occupational therapists and occupational therapy assistants.

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

OT 1.02 Definitions. As used in chs. OT 1 to 5:

(1) “Activity demands” means the specific features of an activity that influence the type and amount of the effort required to perform the activity. Activity demands include the specific objects, space demands, social demands, sequence and timing, actions and skills, body functions, and body structures required to carry out the activity.

(2) “Assessment” is a component part of the evaluation process, and means the process of determining the need for, nature of, and estimated time of treatment at different intervals during the treatment, determining needed coordination with or referrals to other disciplines, and documenting these activities.

(3) “Board” means the occupational therapists affiliated credentialing board.

(4) “Body functions” means the physiological functions of body systems, including mental, sensory, pain, neuromusculoskeletal, movement, cardiovascular, hematological, immunological, respiratory, voice, speech, digestive, metabolic, endocrine, genitourinary, reproductive, lymphatic, integumentary, and related structures.

(5) “Body structures” means anatomical parts of the body, such as organs, limbs, and their components that support body functions.

(6) “Client factors” means values, beliefs, spirituality, body functions, and body structures of the client that may affect performance of occupation and activities.

(7) “Consultation” means a work-centered, problem-solving helping relationship in which knowledge, experience, abilities, and skills are shared with client, family, caregivers, and other professionals, including physicians, in the process of helping to habilitate or rehabilitate through the use of occupational therapy.

(8) “Entry-level” means the person has no demonstrated experience in a specific position, such as a new graduate, a person new to the position, or a person in a new setting with no previous experience in that area of practice.

(9) “Evaluation” means the process of obtaining and interpreting data necessary for understanding the individual system or situation. This includes planning for and documenting the evaluation process, results, and recommendations, including the need for intervention and potential change in the intervention plan.

(10) “Experienced” means demonstrated competence in the performance of duties in a given area of practice.

(11) “Habilitation” means an occupational therapy intervention designed for the education, training or support services provided to individuals to assist them in acquiring and maintaining skills not yet gained or learned, thus enabling them to learn, practice, and refine skills needed for independent living, productive employment, activity, and community participation.

(12) “Level I fieldwork” means an integral part of didactic courses and includes varied learning experiences. Students are

supervised in observation and assistance with clients during short term contacts.

(13) “Level II fieldwork” means extended fieldwork which emphasizes the application and integration of academically acquired knowledge and skills in the supervised delivery of occupational therapy services to clients.

(14) “Occupation” means the functional abilities that occupational therapy addresses in the areas of activities of daily living, instrumental activities of daily living, rest and sleep, education, work and vocational activities, play, leisure, and social participation.

(15) “Occupational therapist educational program” means an educational program and supervised internships in occupational therapy recognized by the board and accredited by the Accreditation Council for Occupational Therapy Education or a program approved by the World Federation of Occupational Therapy.

(16) “Occupational therapy assistant educational program” means an educational program and supervised internships in occupational therapy recognized by the board and accredited by the Accreditation Council for Occupational Therapy Education or a program approved by the World Federation of Occupational Therapy.

(18) “Performance contexts and environments” means a variety of interrelated conditions within and surrounding the client that influence an individual’s engagement in desired or required occupational performance including: personal, cultural, temporal, physical, virtual, and social.

(19) “Performance patterns” means patterns of behavior related to an individual’s daily life activities that are habitual or routine.

(20) “Performance skills” means the skills and abilities that an individual demonstrates in the actions they perform including sensorimotor, sensory-perceptual, emotional regulation, cognition, communication, and social skills.

(21) “Prevention” means the fostering of normal development, promoting health and wellness, sustaining and protecting existing functions and abilities, preventing disability, or supporting levels of restoration or change to enable individuals to maintain maximum independence.

(22) “Referral” means the practice of requesting occupational therapy services.

(23) “Rehabilitation” means the process of treatment and education to restore a person’s ability to live and work as independently as possible after a disabling injury or illness.

(24) “Screening” means the review of occupational performance skills in natural environments or educational, or clinical settings to determine the significance of any discrepancy between current performance and expected level of performance, which may be done in consultation with a physician.

(25) “Service competence” means the determination made by various methods that 2 people performing the same or equivalent procedures will obtain the same or equivalent results.

(26) “Supervision” is a cooperative process in which 2 or more people participate in a joint effort to establish, maintain, and elevate a level of competence and performance. One of the participants, the supervisor, possesses skill, competence, experience,

education, credentials, or authority in excess of those possessed by the other participant, the supervisee.

History: CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03; CR 13-109: r. and recr. Register September 2014 No. 705, eff. 10-1-14; corrections to (intro.) under s. 35.17, Stats. Register September 2014 No. 705; CR 15-053: r. (17) Register August 2016 No. 728, eff. 9-1-16.

Chapter OT 2

LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

<p>OT 2.01 Authority and purpose. OT 2.02 Applications and credentials. OT 2.03 Examinations, panel review of applications. OT 2.04 Exemption from written examination for certain occupational therapy assistant applicants.</p>	<p>OT 2.05 Examination review by applicant. OT 2.06 Board review of examination error claim. OT 2.07 Temporary license. OT 2.08 Reciprocal credentials for service members, former service members, and their spouses.</p>
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OT 2.01 Authority and purpose. The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to govern the licensure and regulation of occupational therapists and occupational therapy assistants.

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

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

- (a) A completed application form.

Note: Application forms are available from the department of safety and professional services' website at www.dsp.wi.gov.

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

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

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

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

History: CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03; CR 21-002: am. (1) (intro.) Register July 2021 No. 787, eff. 8-1-21.

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

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

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

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

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

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

(e) Has not practiced occupational therapy for a period of 5 years prior to application, unless the applicant has graduated from

a school of occupational therapy within that period. Practice for the purposes of this paragraph includes direct client treatment and education, occupational therapy instruction in an occupational therapy academic program recognized by the board, occupational therapy research, and service in administrative positions for health care providers or governmental bodies with responsibility relating to occupational therapy.

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

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

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

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

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

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

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

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

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

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

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

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

graduated from an occupational therapy assistant educational program prior to 1977 is exempt from the requirements for a written licensure examination for occupational therapy assistant.

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

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

(2) Examination reviews are by appointment only.

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

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

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

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

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

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

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

OT 2.06 Board review of examination error claim.

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

(a) The applicant's name and address.

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

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

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

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

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

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

OT 2.07 Temporary license.

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

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

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

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

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

(4) A temporary license expires on the date the applicant is notified that he or she has failed the national certification examination for permanent licensure or on the date the board grants or denies an applicant permanent licensure, whichever is later.

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

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

OT 2.08 Reciprocal credentials for service members, former service members, and their spouses.

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

History: CR 21-002: cr. Register July 2021 No. 787, eff. 8-1-21; correction made under s. 35.17, Stats., Register July 2021 No. 787.

Chapter OT 3

BIENNIAL LICENSE RENEWAL

OT 3.01	Authority and purpose.	OT 3.04	Renewal prohibited.
OT 3.02	Renewal required; method of renewal.	OT 3.05	Late renewal and reinstatement.
OT 3.03	Initial renewal.	OT 3.06	Continuing education.

OT 3.01 Authority and purpose. The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2), and 448.965, Stats., to govern biennial renewal requirements for occupational therapists and occupational therapy assistants.

History: CR 02–026: cr. Register December 2002 No. 564, eff. 1–1–03; CR 20–016: am. Register July 2021 No. 787, eff. 8–1–21.

OT 3.02 Renewal required; method of renewal. Each licensee shall renew biennially with the board. Each licensee shall submit a completed renewal application and the required renewal fee to the department by the date specified in s. 440.08 (2) (a) 52. or 53., Stats., as applicable. The board shall notify a licensee within 30 business days of receipt of a completed renewal application whether renewal is approved or denied.

History: CR 02–026: cr. Register December 2002 No. 564, eff. 1–1–03; CR 13–109: am. Register September 2014 No. 705, eff. 10–1–14; CR 20–016: am. Register July 2021 No. 787, eff. 8–1–21.

OT 3.03 Initial renewal. A licensee who is initially granted and issued a license shall renew the license as provided under s. OT 3.02 by the date specified in s. 440.08 (2) (a) 52. or 53., Stats., as applicable.

History: CR 02–026: cr. Register December 2002 No. 564, eff. 1–1–03; CR 20–016: am. Register July 2021 No. 787, eff. 8–1–21.

OT 3.04 Renewal prohibited. The license of an occupational therapist or occupational therapy assistant who has not complied with the provisions of s. OT 3.06 and s. 448.967 (2), Stats., may not be renewed.

History: CR 02–026: cr. Register December 2002 No. 564, eff. 1–1–03; CR 20–016: am. Register July 2021 No. 787, eff. 8–1–21.

OT 3.05 Late renewal and reinstatement. Failure to renew as required under s. OT 3.02 shall cause a license to expire. A licensee who allows a license to expire may apply to the board for late renewal or reinstatement of the license by completing one of the following:

(1) **LATE RENEWAL WITHIN 5 YEARS.** If a licensee applies for renewal within 5 years after the renewal date, the license shall be renewed upon submission of the completed application and fee required under s. OT 3.02, payment of the late fee under s. 440.08 (3) (a), Stats., and fulfillment of the continuing education requirements under s. OT 3.06.

(2) **LATE RENEWAL AFTER 5 YEARS.** If a licensee applies for renewal more than 5 years after the renewal date, the board shall make such inquiry as it finds necessary to determine whether the applicant is competent to practice under the license in this state. Subject to s. 440.08 (3) (b), Stats., the board shall impose any rea-

sonable conditions on the renewal of the license, including oral examination, as the board deems appropriate. All applicants under this subsection shall be required to pass the open book examination on statutes and rules, which is the same examination given to initial applicants. Except as provided under sub. (3) (a), this subsection does not apply to licensees who have unmet disciplinary requirements or whose licenses have been denied at renewal, surrendered, or revoked.

(3) **REINSTATEMENT.** A licensee who has unmet disciplinary requirements and failed to renew within 5 years of the renewal date or whose license has been denied at renewal, surrendered, or revoked, may apply to have the license reinstated. An application for reinstatement shall include all of the following:

(a) Evidence of completion of the requirements under sub. (2).

(b) Evidence of completion of disciplinary requirements, if applicable.

(c) Evidence of rehabilitation or change in circumstances warranting reinstatement of the license.

History: CR 02–026: cr. Register December 2002 No. 564, eff. 1–1–03; CR 13–109: am. (intro.) Register September 2014 No. 705, eff. 10–1–14; correction in (intro.) under s. 35.17, Stats. Register September 2014 No. 705; CR 15–053: am. (title), (intro.), cr. (1) (title), am. (2), cr. (3) Register August 2016 No. 728, eff. 9–1–16; CR 20–016: am. (intro.), (1), (2), (3) (intro.), (a) Register July 2021 No. 787, eff. 8–1–21.

OT 3.06 Continuing education. The purpose and intent of continuing education in occupational therapy is to assure the public of the expectation and obligation that practitioners maintain currency, knowledge levels and professional competence. Occupational therapists and occupational therapy assistants shall complete continuing education as follows:

(1) Each holder of a license as an occupational therapist shall, at the time of applying for renewal of the license, certify that the licensee has completed at least 24 points of acceptable continuing education during the 2-year period immediately preceding the renewal date under s. 440.08 (2) (a) 52., Stats.

(2) Each holder of a license as an occupational therapy assistant shall, at the time of applying for renewal of the license, certify that the licensee has completed at least 24 points of acceptable continuing education during the 2-year period immediately preceding the renewal date under s. 440.08 (2) (a) 53., Stats.

(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. In Table OT 3.06, “contact hour” means not less than 50 minutes of actual professional activity.

TABLE OT 3.06	
PROFESSIONAL DEVELOPMENT ACTIVITIES	PROFESSIONAL DEVELOPMENT POINTS
(a) Attendance at academic credit courses.	4 points per academic credit.
(b) Attendance at seminars, workshops, lectures, professional conferences, interactive online courses and video courses.	1 point per contact hour of attendance.
(c) Satisfactory completion of a self-study course approved by the American Occupational Therapy Association or other related recognized professional associations.	4 points per continuing education unit.
(d) Review of an American Occupational Therapy Association continuing education article and successful completion of the associated examination.	1 point per article.
(e) Attendance at employer-provided continuing education, including video and non-interactive online courses.	1 point per contact hour of attendance.
(f) Initial completion of specialty board certification in occupational therapy, including certification in neurorehabilitation, pediatrics, hand therapy, gerontology, driver rehabilitation, advanced practice, neuro-developmental treatment, case management, and rehabilitation counseling.	12 points.
(g) Authorship of a book in occupational therapy or a related professional area.	12 points.
(h) Publication of one or more chapters of a book in occupational therapy or a related professional area.	6 points.
(i) Publication of an article in a non-peer-reviewed publication, such as OT Practice, SIS Quarterly, and Advance.	4 points.
(j) Publication of an article in peer-reviewed professional publications, including journals, book chapters, and research papers.	6 points.
(k) Development of alternative media materials, including computer software, programs and video instructional material.	6 points.
(L) Development of a quality assurance study for clinical program improvement.	6 points.
(m) Clinical or theoretical research as the principal researcher where an abstract is prepared.	12 points.
(n) Professional presentations. Note: No additional points are given for subsequent presentations of the same content.	2 points per contact hour. No additional points are given for subsequent presentations of the same content.
(o) Providing or pursuing professional mentoring for skill advancement in occupational therapy.	1 point for each 2 contact hours.
(p) Student fieldwork supervision – Level I fieldwork.	2 points.
(q) Student fieldwork supervision – Level II fieldwork.	8 points.
(r) Reimbursement or ethics courses.	1 point per contact hour.

(4) Certificates of completion or other evidence of compliance with this section shall be retained by each license holder for at least 2 years following the biennium in which the continuing education was completed.

(5) The board shall audit any licensee who is under investigation by the board for alleged misconduct for compliance with this section.

(6) During the time between initial licensure and commencement of a full 2-year licensure period, new licensees shall not be required to meet continuing education requirements.

(7) A licensee may apply to the board for a postponement or waiver of the requirements of this section on the grounds of prolonged illness, disability, or other grounds constituting hardship. The board shall consider each request individually on its merits and may grant a postponement, partial waiver, or total waiver of the requirements.

History: CR 02-026; cr. Register December 2002 No. 564, eff. 1-1-03; CR 06-115; cr. (6) and (7) Register May 2007 No. 617, eff. 6-1-07; CR 13-109; cr. (r) Table Register September 2014 No. 705, eff. 10-1-14; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register August 2016 No. 728; CR 20-016; am. (1) to (3), cr. Table (title), am. Table rows (c), (d), (f), (n), (p), (q), (4), (5) Register July 2021 No. 787, eff. 8-1-21.

Chapter OT 4

PRACTICE AND SUPERVISION

OT 4.01 Authority and purpose.
OT 4.02 Scope of practice.
OT 4.03 Standards of practice.

OT 4.04 Supervision and practice of occupational therapy assistants.
OT 4.05 Supervision of non–licensed personnel and therapy aides.

OT 4.01 Authority and purpose. The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to govern the standards of practice and supervision requirements for occupational therapists and occupational therapy assistants.

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

OT 4.02 Scope of practice. (1) “Occupational therapy,” as defined at s. 448.96 (5), Stats., may include the following interventions:

(a) Remediation or restitution of performance abilities that are limited due to impairment in biological, physiological, psychological or neurological processes.

(b) Adaptation of task, process or environment, or the teaching of compensatory techniques, in order to enhance performance.

(c) Disability prevention methods and techniques which facilitate the development or safe application of performance skills.

(d) Health promotion strategies and practices which enhance performance abilities.

(2) Occupational therapy interventions include the following:

Note: A comprehensive list of occupational therapy interventions can be found in the Model Practice Act of the American Occupational Therapy Association (AOTA). The AOTA may be contacted on the web at www.aota.org or by mail at American occupational therapy association, P.O. Box 31220, Bethesda, MD 20824–1220.

(a) Screening, evaluating, developing, improving, sustaining, or restoring skills in activities of daily living, work or productive activities, instrumental activities of daily living, play, leisure activities, rest and sleep, education and social participation.

(b) Evaluating, developing, remediating, or restoring sensorimotor, sensoriperceptual neuromusculoskeletal, emotional regulation, cognition, communication, social skills, or psychosocial components of performance.

(c) Designing, fabricating or training in the use of assistive technology, upper extremity orthotic devices and lower extremity positioning orthotic devices.

(d) Training in the use of prosthetic devices, excluding gait training.

(e) Adaptation of environments and processes, including the application of ergonomic principles, to enhance performance and safety in daily life roles.

(f) Application of physical agent modalities. Application is performed by an experienced therapist with demonstrated and documented evidence of theoretical background, technical skill and competence.

Note: An example of standards for evaluating theoretical background, technical skill and competence is the position paper on physical agent modalities issued by the American occupational therapy association (AOTA). AOTA may be contacted on the web at www.aota.org, and by mail at American Occupational Therapy Association, P.O. Box 31220, Bethesda, MD 20824–1220.

(g) Evaluating and providing intervention and case management in collaboration with the client, family, caregiver or other involved individuals or professionals.

(h) Educating the client, family, caregiver, or others in carrying out appropriate nonskilled interventions.

(i) Consulting with groups, programs, organizations, or communities to provide population–based services.

(j) Therapeutic use of occupations, exercises, and activities.

(k) Training in self–care, self–management, health management and maintenance, home management, community work reintegration, and school activities and work performance.

(L) Therapeutic use of self, including one’s personality, insights, perceptions and judgments, as part of the therapeutic process.

(m) Assessment, recommendation, and training in techniques to enhance functional mobility, including management of wheelchair and other mobility devices.

(n) Vision and low vision rehabilitation.

(o) Driver rehabilitation and community mobility.

(p) Management of feeding, eating, and swallowing to enable eating and feeding performance.

(q) Facilitating the occupational performance of groups, populations, or organizations through the modification of environments and adaptation processes.

(r) Use of a range of specific therapeutic procedures, including wound care management; techniques to enhance sensory, perceptual, and cognitive processing; and pain management, lymphedema management, and manual therapy techniques, to enhance performance skills.

History: CR 02–026: cr. Register December 2002 No. 564, eff. 1–1–03; CR 13–109: am. (2) (intro.), (a), (b), cr. (2) (j) to (r) Register September 2014 No. 705 eff. 10–1–14; CR 15–053: am. (2) (f) Register August 2016 No. 728, eff. 9–1–16.

OT 4.03 Standards of practice. Occupational therapists and occupational therapy assistants shall adhere to the minimum standards of practice of occupational therapy that have become established in the profession, including but not limited to the following areas:

(1) SCREENING. (a) An occupational therapist, alone or in collaboration with an occupational therapy assistant, when practicing either independently or as a member of a treatment team, shall identify individuals who present deficits or declines in performance of their occupations including occupational performance skills and performance patterns.

(b) Screening methods shall take into consideration the occupational performance contexts relevant to the individual.

(c) Screening methods may include interviews, observations, testing and records review to determine the need for further evaluation and intervention.

(d) The occupational therapist or occupational therapy assistant shall transmit screening results and recommendations to all appropriate persons.

(2) REFERRALS. Referrals may be accepted from advanced practice nurses, chiropractors, dentists, optometrists, physical therapists, physicians, physician assistants, podiatrists, psychologists, or other health care professionals.

(3) EVALUATION. (a) The occupational therapist directs the evaluation process. An occupational therapist alone or in collaboration with the occupational therapy assistant shall prepare an occupational therapy evaluation for each individual referred for occupational therapy services. The occupational therapist interprets the information gathered in the evaluation process.

(b) The evaluation shall consider the individual's medical, vocational, social, educational, family status, and personal and family goals, and shall include an assessment of how performance skills, and performance patterns and their contexts and environments influence the individual's functional abilities and deficits in the performance of their occupations.

(c) Evaluation methods may include observation, interviews, records review, and the use of structured or standardized evaluative tools or techniques.

(d) When standardized evaluation tools are used, the tests shall have normative data for the individual's characteristics. If normative data are not available, the results shall be expressed in a descriptive report. Collected evaluation data shall be analyzed and summarized to indicate the individual's current status.

(e) Evaluation results shall be documented in the individual's record and shall indicate the specific evaluation tools and methods used.

(f) Evaluation results shall be communicated to the referring health care professional, if any, and to the appropriate persons in the facility and community.

(g) If the results of the evaluation indicate areas that require intervention by other health care professionals, the individual shall be appropriately referred or an appropriate consultation shall be requested.

(h) Initial evaluation shall be completed and results documented within the time frames established by the applicable facility, community, regulatory, or funding body.

(4) PROGRAM PLANNING. (a) The occupational therapist is responsible for the development of the occupational therapy intervention plan. The occupational therapist develops the plan collaboratively with the client, and may include the occupational therapy assistant and team working with the client, including the physician — as indicated.

(b) The program shall be stated in measurable and reasonable terms appropriate to the individual's needs, functional goals and prognosis and shall identify short and long term goals.

(c) The program shall be consistent with current principles and concepts of occupational therapy theory and practice.

(d) In developing the program, the occupational therapist alone or in collaboration with the occupational therapy assistant shall also collaborate, as appropriate, with the individual, family, other health care professionals and community resources; shall select the media, methods, environment, and personnel needed to accomplish the goals; and shall determine the frequency and duration of occupational therapy interventions provided.

(e) The program shall be prepared and documented within the time frames established by the applicable facility, community, regulatory, or funding body.

(5) PROGRAM IMPLEMENTATION. (a) The occupational therapy program shall be implemented according to the program plan previously developed. The occupational therapist may delegate aspects of intervention to the occupational therapy assistant dependent on the occupational therapy assistant's demonstrated and documented service competency.

(b) The individual's occupations, occupational performance, skills, occupational performance patterns, and occupational performance contexts and environments shall be routinely and systematically evaluated and documented.

(c) Program modifications shall be formulated and implemented consistent with the changes in the individual's occupational performance skills, occupational performance patterns and occupational performance contexts and environments.

(d) All aspects of the occupational therapy program shall be routinely and systematically reviewed for effectiveness and efficacy.

(6) DISCONTINUATION OF SERVICES. (a) Occupational therapy services shall be discontinued when the individual has achieved the program goals or has achieved maximum benefit from occupational therapy.

(b) A comparison of the initial and current state of functional abilities and deficits in occupational performance skills, and occupational performance patterns, affecting performance in the individual's occupations shall be made and documented.

(c) A discharge plan shall be prepared, consistent with the interventions provided, the individual's goals, and the expected prognosis. Consideration shall be given to the individual's occupational performance contexts and environments including appropriate community resources for referral, and environmental factors or barriers that may need modification.

(d) Sufficient time shall be allowed for the coordination and effective implementation of the discharge plan.

(e) Recommendations for follow-up or reevaluation shall be documented.

History: CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03; correction in (2) (e) made under s. 13.92 (4) (b) 6., Stats., Register November 2011 No. 671; CR 13-109: am. (1) (a), (2) (title), (a), (c) to (e), (3) (a), (b), (f), (4) (d), (5) (b), (c), (6) (b), (c) Register September 2014 No. 705, eff. 10-1-14; CR 15-053: am. (2) (title), r. (2) (a), am. (2) (b), r. (2) (c) to (e), am. (3) (a), (f) Register August 2016 No. 728, eff. 9-1-16; renun. (2) (b) to (2) under s. 13.92 (4) (b) 1., Stats., Register August 2016 No. 728.

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) (ad) In this subsection, "direct contact" means face-to-face communication or communication by means of telephone, electronic communication, or group conference.

(ah) When general supervision is allowed, the supervising occupational therapist shall, except as provided under par. (ap), 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 once per calendar month.

(ap) 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.

(at) Direct contact with the occupational therapy assistant under pars. (ah) and (ap) shall include reviewing the progress and

effectiveness of treatment, and may occur simultaneously or separately from face-to-face contact with the client.

(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.

(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.

History: CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03; CR 08-050: am. (3), renum. (4) to be (4) (a) and am., cr. (4) (b) and (c) Register January 2009 No. 637, eff. 2-1-09; CR 19-108: renum.(4) (a) to (4) (ah) and am., cr. (4) (ap), (at), renum. (4) (c) to (4) (ad) and am. Register February 2020 No. 770, eff. 3-1-20.

OT 4.05 Supervision of non-licensed personnel and therapy aides. (1) An occupational therapist or occupational therapy assistant must provide direct supervision of non-licensed personnel at all times. Direct supervision requires that the supervising occupational therapist or occupational therapy assistant be on premises and available to assist.

(2) When an occupational therapist or occupational therapy assistant delegates to non-licensed personnel maintenance or restorative services to clients, the occupational therapist or occupational therapy assistant must be in the immediate area and within audible and visual range of the client and the non-licensed personnel.

(3) An occupational therapist or occupational therapy assistant may delegate to non-licensed personnel only non-skilled, specific tasks which are neither evaluative, assessive, task selective nor recommending in nature, and only after ensuring that the non-licensed person has been appropriately trained for the performance of the task.

(4) Occupational therapists and occupational therapy assistants must exercise their professional judgment when determining the number of non-licensed persons they can safely and effectively supervise to ensure that quality care is provided at all times. A limit of 2 is recommended.

(5) Any duties assigned to non-licensed personnel must be determined and appropriately supervised by an occupational therapist or occupational therapy assistant and must not exceed the level of training, knowledge, skill and competence of the individual being supervised. The licensed occupational therapist or occupational therapy assistant is responsible for the acts or actions performed by any non-licensed person functioning in the occupational therapy setting.

(6) An occupational therapist or occupational therapy assistant may delegate to non-licensed personnel duties or functions, including the following services:

- (a) Transportation of clients.
- (b) Preparation or setting up of treatment equipment and work area.
- (c) Attending to clients' personal needs during treatment.
- (d) Clerical, secretarial or administrative duties.

(7) Duties or functions that an occupational therapist or occupational therapy assistant may not delegate to non-licensed personnel include, but are not limited to, the following:

- (a) Interpretation of referrals or orders for occupational therapy services.
- (b) Evaluative procedures.
- (c) Development, planning, adjusting or modification of treatment procedures.
- (d) Acting on behalf of the occupational therapist or occupational therapy assistant in any matter related to direct client care which requires judgment or decision making.

History: CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03; CR 13-109: am. (6) (intro.), (7) (a) Register September 2014 No. 705, eff. 10-1-14.

Chapter OT 5

UNPROFESSIONAL CONDUCT

OT 5.01 Authority and purpose.

OT 5.02 Unprofessional conduct defined.

OT 5.01 Authority and purpose. The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to establish the rules of conduct for occupational therapists and occupational therapy assistants.

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

OT 5.02 Unprofessional conduct defined. “Unprofessional conduct” means doing, or aiding or abetting, any of the following:

(1) Violating or attempting to violate any provision or term of ss. 448.96 to 448.970, Stats., or of any rule of the board.

(2) Violating or attempting to violate any term, provision, or condition of any order of the board.

(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.

(4) Practicing fraud, forgery, deception, collusion, or conspiracy in connection with any examination for license.

(5) Giving, selling, buying, bartering, or attempting to give, sell, buy, or barter any license.

(6) Engaging or attempting to engage in practice under any license under any given name or surname other than that under which originally licensed or registered to practice in this or any other state. This subsection does not apply to change of name resulting from marriage, divorce, or order by a court of record.

(7) Any practice or conduct which may constitute a danger to the health, welfare, or safety of client or public.

(8) Practicing or attempting to practice under any license when unable to do so with reasonable skill and safety to clients.

(9) Practicing or attempting to practice under any license beyond the scope of that license.

(10) Offering, undertaking, or agreeing to treat or cure a disease or condition by a secret means, method, device, or instrumentality; or refusing to divulge to the board upon demand the means, method, device, or instrumentality used in the treatment of a disease or condition.

(11) Representing that a manifestly incurable disease or condition may be or will be permanently cured; or that a curable disease or condition can be cured within a stated time, if this is not the fact.

(12) Knowingly making any false statement, written or oral, in practicing under any license, with fraudulent intent; or obtain-

ing or attempting to obtain any professional fee or compensation of any form by fraud or deceit.

(13) Willfully divulging a privileged communication or confidence entrusted by a client or deficiencies in the character of clients observed in the course of professional attendance, unless lawfully required to do so.

(14) Engaging in uninvited, in-person solicitation of actual or potential clients who, because of their particular circumstances, are vulnerable to undue influence; or engaging in false, misleading or deceptive advertising.

(15) Having a license, 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 any 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.

(16) Conviction of any crime the circumstances of which substantially relate to the circumstances of the practice of occupational therapy. A certified copy of a judgment of a court record showing such conviction, within this state or without, shall be presumptive evidence.

(17) Aiding or abetting the unlicensed practice of occupational therapy.

(18) Violating or aiding and abetting the violation of any law or administrative rule or regulation the circumstances of which substantially relate to the circumstances of the practice of occupational therapy.

(19) Failing to report to the board or to institutional supervisory personnel any violation of the rules of this chapter by a licensee.

(20) Engaging in inappropriate sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a client. For the purposes of this subsection, an adult receiving treatment shall continue to be a client for 2 years after the termination of professional services. If the person receiving treatment is a minor, the person shall continue to be a client for the purposes of this subsection for 2 years after termination of services, or for 2 years after the client reaches 18 years of age, whichever is longer.

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

State of Wisconsin



2021 Senate Bill 412

Date of enactment: **February 4, 2022**
Date of publication*: **February 5, 2022**

2021 WISCONSIN ACT 123

AN ACT *to amend* 49.45 (9r) (a) 7. c., 146.81 (1) (es), 146.997 (1) (d) 4., 146.997 (1) (d) 5., 155.01 (7), 252.14 (1) (ar) 4p., 440.03 (9) (a) (intro.), 440.03 (9) (a) 2., 440.03 (13) (b) (intro.), 440.03 (13) (c), 440.15, 446.01 (1v) (h), 448.956 (1m), 448.96 (4) and (6), 448.961, 448.968 (2) (intro.), 450.10 (3) (a) 5. and 451.02 (1); and *to create* 14.89, 440.03 (11m) (c) 2r., 448.96 (1n) and (1o) and subchapter XI of chapter 448 [precedes 448.987] of the statutes; **relating to:** ratification of the Occupational Therapy Licensure Compact, extending the time limit for emergency rule procedures, providing an exemption from emergency rule procedures, and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 14.89 of the statutes is created to read:

14.89 Occupational therapy licensure compact.

There is created an occupational therapy compact commission as specified in s. 448.987. The delegate of the commission representing this state shall be an individual described in s. 448.987 (8) (b) 2. The commission has the powers and duties granted and imposed under s. 448.987.

SECTION 2. 49.45 (9r) (a) 7. c. of the statutes is amended to read:

49.45 (9r) (a) 7. c. An occupational therapist who is licensed under subch. VII of ch. 448 or who holds a compact privilege under subch. XI of ch. 448.

SECTION 3. 146.81 (1) (es) of the statutes is amended to read:

146.81 (1) (es) An occupational therapist or occupational therapy assistant who is licensed under subch. VII of ch. 448 or who holds a compact privilege under subch. XI of ch. 448.

SECTION 4. 146.997 (1) (d) 4. of the statutes is amended to read:

146.997 (1) (d) 4. A physician, physician assistant, podiatrist, or perfusionist, physical therapist, or physical therapist assistant, occupational therapist, or occupational therapy assistant licensed under ch. 448 ~~or~~; a physical therapist or physical therapist assistant who holds a compact privilege under subch. IX of ch. 448; or an occupational therapist or occupational therapy assistant who holds a compact privilege under subch. XI of ch. 448.

SECTION 5. 146.997 (1) (d) 5. of the statutes is amended to read:

146.997 (1) (d) 5. ~~An occupational therapist, occupational therapy assistant, physician assistant or~~ A respiratory care practitioner certified under ch. 448.

SECTION 6. 155.01 (7) of the statutes is amended to read:

155.01 (7) "Health care provider" means a nurse licensed or permitted under ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a physician, physician assistant, perfusionist, podiatrist, physical therapist, physical therapist assistant, occupational therapist, or occupational therapy assistant licensed under ch. 448, a person practicing Christian Sci-

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

ence treatment, an optometrist licensed under ch. 449, a psychologist licensed under ch. 455, a physical therapist or physical therapist assistant who holds a compact privilege under subch. IX of ch. 448, an occupational therapist or occupational therapy assistant who holds a compact privilege under subch. XI of ch. 448, a partnership thereof, a corporation or limited liability company thereof that provides health care services, a cooperative health care association organized under s. 185.981 that directly provides services through salaried employees in its own facility, or a home health agency, as defined in s. 50.49 (1) (a).

SECTION 7. 252.14 (1) (ar) 4p. of the statutes is amended to read:

252.14 (1) (ar) 4p. An occupational therapist or occupational therapy assistant who is licensed under subch. VII of ch. 448 or who holds a compact privilege under subch. XI of ch. 448.

SECTION 8. 440.03 (9) (a) (intro.) of the statutes is amended to read:

440.03 (9) (a) (intro.) Subject to pars. (b) and (c) and s. 458.33 (2) (b) and (5), the department shall, biennially, determine each fee for an initial credential for which no examination is required, for a reciprocal credential, and for a credential renewal and any fee fees imposed under ~~s. ss.~~ 448.986 (2) and 448.9875 (2) by doing all of the following:

SECTION 9. 440.03 (9) (a) 2. of the statutes is amended to read:

440.03 (9) (a) 2. Not later than January 31 of each odd-numbered year, adjusting for the succeeding fiscal biennium each fee for an initial credential for which an examination is not required, for a reciprocal credential, and, subject to s. 440.08 (2) (a), for a credential renewal, and any fee fees imposed under ~~s. ss.~~ 448.986 (2) and 448.9875 (2), if an adjustment is necessary to reflect the approximate administrative and enforcement costs of the department that are attributable to the regulation of the particular occupation or business during the period in which the initial or reciprocal credential, credential renewal, or compact privilege is in effect and, for purposes of each fee for a credential renewal, to reflect an estimate of any additional moneys available for the department's general program operations as a result of appropriation transfers that have been or are estimated to be made under s. 20.165 (1) (i) during the fiscal biennium in progress at the time of the deadline for an adjustment under this subdivision or during the fiscal biennium beginning on the July 1 immediately following the deadline for an adjustment under this subdivision.

SECTION 10. 440.03 (11m) (c) 2r. of the statutes is created to read:

440.03 (11m) (c) 2r. The coordinated database and reporting system under s. 448.987 (9), if such disclosure is required under the occupational therapy licensure compact under s. 440.987.

SECTION 11. 440.03 (13) (b) (intro.) of the statutes is amended to read:

440.03 (13) (b) (intro.) The department may investigate whether an applicant for or holder of any of the following credentials has been charged with or convicted of a crime only pursuant to rules promulgated by the department under this paragraph, including rules that establish the criteria that the department will use to determine whether an investigation under this paragraph is necessary, except as provided in par. (c) and ss. 441.51 (5) (a) 5., 448.980 (5) (b) 3., ~~and 448.985 (3) (a) 4., and 448.987 (3) (a) 5. a. and (5) (b) 2. a.:~~

SECTION 12. 440.03 (13) (c) of the statutes is amended to read:

440.03 (13) (c) The department shall require an applicant for a private detective license or a private security permit under s. 440.26, an applicant for a juvenile martial arts instructor permit under sub. (17), an applicant for a real estate appraiser certification under s. 458.06 or license under s. 458.08, an applicant for a multistate license under s. 441.06 (1c) or 441.10 (1c), an applicant for a compact license under s. 448.05 (2) (f), an applicant for a physical therapist license under s. 448.53 or physical therapist assistant license under s. 448.535, an applicant for an occupational therapist or occupational therapy assistant compact privilege under s. 448.987 (4), an applicant for an occupational therapist or occupational therapy assistant license described in s. 448.987 (5) (b) 2. a., and a person for whom the department conducts an investigation under par. (b), to be photographed and fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints. The department of justice may submit the fingerprint cards, and the department of justice shall submit the fingerprint cards of all applicants for a real estate appraiser certification under s. 458.06 or license under s. 458.08, of all applicants for a multistate license under s. 441.06 (1c) or 441.10 (1c), of all applicants for a compact license under s. 448.05 (2) (f), and of all applicants for a physical therapist license under s. 448.53 or a physical therapist assistant license under s. 448.535, to the federal bureau of investigation for the purpose of verifying the identity of the persons fingerprinted and obtaining records of their criminal arrests and convictions. Information obtained from the federal bureau of investigation may be shared with the department or the appropriate credentialing board, but shall otherwise be kept confidential and is not subject to disclosure under s. 19.35.

SECTION 13. 440.15 of the statutes, as affected by 2021 Wisconsin Act 25, is amended to read:

440.15 No fingerprinting. Except as provided under ss. 440.03 (13) (c), 441.51 (5) (a) 5., 448.980 (5) (b) 3., 448.985 (3) (a) 4., 448.987 (3) (a) 5. a. and (5) (b) 2. a., 450.071 (3) (c) 9., and 450.075 (3) (c) 9., the department or a credentialing board may not require that an applicant for a credential or a credential holder be finger-

printed or submit fingerprints in connection with the department's or the credentialing board's credentialing.

SECTION 14. 446.01 (1v) (h) of the statutes is amended to read:

446.01 (1v) (h) Occupational therapists affiliated credentialing board under subch. VII of ch. 448. "Health care professional" also includes an individual who holds a compact privilege under subch. XI of ch. 448.

SECTION 15. 448.956 (1m) of the statutes is amended to read:

448.956 (1m) Subject to sub. (1) (a), a licensee may provide athletic training to an individual without a referral, except that a licensee may not provide athletic training as described under s. 448.95 (5) (d) or (e) in an outpatient rehabilitation setting unless the licensee has obtained a written referral for the individual from a practitioner licensed or certified under subch. II, III, IV, V, or VII of this chapter; under ch. 446; or under s. 441.16 (2) or from a practitioner who holds a compact privilege under subch. IX or XI of ch. 448.

SECTION 16. 448.96 (1n) and (1o) of the statutes are created to read:

448.96 (1n) "Compact" means the occupational therapy licensure compact under s. 448.987.

(1o) "Compact privilege" means a compact privilege, as defined in s. 448.987 (2) (d), that is granted under the compact to an individual to practice in this state.

SECTION 17. 448.96 (4) and (6) of the statutes are amended to read:

448.96 (4) "Occupational therapist" means an individual who is licensed by the affiliated credentialing board to practice occupational therapy or who holds an occupational therapist compact privilege.

(6) "Occupational therapy assistant" means an individual who is licensed by the affiliated credentialing board to assist in the practice of occupational therapy under the supervision of an occupational therapist or who holds an occupational therapy assistant compact privilege.

SECTION 18. 448.961 of the statutes is amended to read:

448.961 License required. (1) Except as provided in s. 448.962 (1), ~~a no person who is not licensed as an occupational therapist may not practice occupational therapy, designate himself or herself as an occupational therapist, claim to render occupational therapy services, or use the abbreviation "O.T." or "O.T.R." after the person's name unless the person is licensed as an occupational therapist or holds a valid occupational therapist compact privilege.~~

(2) Except as provided in s. 448.962 (2) ~~a, no person who is not licensed as an occupational therapy assistant may not assist in the practice of occupational therapy, describe himself or herself as an occupational therapy assistant or claim to render occupational therapy services as an occupational therapy assistant, or use the~~

abbreviation "O.T.A." or "C.O.T.A." after the person's name unless the person is licensed as an occupational therapy assistant or holds a valid occupational therapy assistant compact privilege.

SECTION 19. 448.968 (2) (intro.) of the statutes is amended to read:

448.968 (2) (intro.) Subject to the rules promulgated under s. 440.03 (1), the affiliated credentialing board may reprimand a licensee or compact privilege holder or deny, limit, suspend or revoke a license granted under this subchapter or a compact privilege if it finds that the applicant ~~or licensee, or compact privilege holder~~ has done any of the following:

SECTION 20. Subchapter XI of chapter 448 [precedes 448.987] of the statutes is created to read:

CHAPTER 448

SUBCHAPTER XI

OCCUPATIONAL THERAPY

LICENSURE COMPACT

448.987 Occupational therapy licensure compact.

(1) **PURPOSE.** The purpose of this compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. This compact is designed to achieve the following objectives:

(a) Increase public access to occupational therapy services by providing for the mutual recognition of other member state licenses;

(b) Enhance the states' ability to protect the public's health and safety;

(c) Encourage the cooperation of member states in regulating multi-state occupational therapy practice;

(d) Support spouses of relocating military members;

(e) Enhance the exchange of licensure, investigative, and disciplinary information between member states;

(f) Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and

(g) Facilitate the use of telehealth technology in order to increase access to occupational therapy services.

(2) **DEFINITIONS.** As used in this compact, and except as otherwise provided, the following definitions shall apply:

(a) "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 USC ch. 1209 and 10 USC ch. 1211.

(b) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an occupational therapist or occupational therapy

assistant, including actions against an individual's license or compact privilege such as censure, revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.

(c) "Alternative program" means a non-disciplinary monitoring process approved by an occupational therapy licensing board.

(d) "Compact privilege" means the authorization, which is equivalent to a license, granted by a remote state to allow a licensee from another member state to practice as an occupational therapist or practice as an occupational therapy assistant in the remote state under its laws and rules. The practice of occupational therapy occurs in the member state where the patient/client is located at the time of the patient/client encounter.

(e) "Continuing competence/education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

(f) "Current significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the occupational therapist or occupational therapy assistant to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

(g) "Data system" means a repository of information about licensees, including but not limited to license status, investigative information, compact privileges, and adverse actions.

(h) "Encumbered License" means a license in which an adverse action restricts the practice of occupational therapy by the licensee or said adverse action has been reported to the National Practitioners Data Bank (NPDB).

(i) "Executive committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

(j) "Home state" means the member state that is the licensee's primary state of residence.

(k) "Impaired practitioner" means individuals whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

(L) "Investigative information" means information, records, and/or documents received or generated by an occupational therapy licensing board pursuant to an investigation.

(m) "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of occupational therapy in a state.

(n) "Licensee" means an individual who currently holds an authorization from the state to practice as an occupational therapist or as an occupational therapy assistant.

(o) "Member state" means a state that has enacted the compact.

(p) "Occupational therapist" means an individual who is licensed by a state to practice occupational therapy.

(q) "Occupational therapy assistant" means an individual who is licensed by a state to assist in the practice of occupational therapy.

(r) "Occupational therapy," "occupational therapy practice," and the "practice of occupational therapy" mean the care and services provided by an occupational therapist or an occupational therapy assistant as set forth in the member state's statutes and regulations.

(s) "Occupational therapy compact commission" or "commission" means the national administrative body whose membership consists of all states that have enacted the compact.

(t) "Occupational therapy licensing board" or "licensing board" means the agency of a state that is authorized to license and regulate occupational therapists and occupational therapy assistants.

(u) "Primary state of residence" means the state (also known as the home state) in which an occupational therapist or occupational therapy assistant who is not active duty military declares a primary residence for legal purposes as verified by: driver's license, federal income tax return, lease, deed, mortgage, or voter registration or other verifying documentation as further defined by commission rules.

(v) "Remote state" means a member state other than the home state, where a licensee is exercising or seeking to exercise the compact privilege.

(w) "Rule" means a regulation promulgated by the commission that has the force of law.

(x) "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of occupational therapy.

(y) "Single-state license" means an occupational therapist or occupational therapy assistant license issued by a member state that authorizes practice only within the issuing state and does not include a compact privilege in any other member state.

(z) "Telehealth" means the application of telecommunication technology to deliver occupational therapy services for assessment, intervention and/or consultation.

(3) STATE PARTICIPATION IN THE COMPACT. (a) To participate in the compact, a member state shall:

1. License occupational therapists and occupational therapy assistants;
2. Participate fully in the commission's data system, including but not limited to using the commission's unique identifier as defined in rules of the commission;
3. Have a mechanism in place for receiving and investigating complaints about licensees;

4. Notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

5. Implement or utilize procedures for considering the criminal history records of applicants for an initial compact privilege. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records;

a. A member state shall, within a time frame established by the commission, require a criminal background check for a licensee seeking/applying for a compact privilege whose primary state of residence is that member state, by receiving the results of the federal bureau of investigation criminal record search, and shall use the results in making licensure decisions.

b. Communication between a member state, the commission or among member states regarding the verification of eligibility for licensure through the compact shall not include any information received from the federal bureau of investigation relating to a federal criminal records check performed by a member state under P.L. 92–544.

6. Comply with the rules of the commission;

7. Utilize only a recognized national examination as a requirement for licensure pursuant to the rules of the commission; and

8. Have continuing competence/education requirements as a condition for license renewal.

(b) A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules.

(c) Member states may charge a fee for granting a compact privilege.

(d) A member state shall provide for the state's delegate to attend all occupational therapy compact commission meetings.

(e) Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting the compact privilege in any other member state.

(f) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

(4) COMPACT PRIVILEGE. (a) To exercise the compact privilege under the terms and provisions of the compact, the licensee shall:

1. Hold a license in the home state;

2. Have a valid United States social security number or national practitioner identification number;

3. Have no encumbrance on any state license;

4. Be eligible for a compact privilege in any member state in accordance with pars. (d), (f), (g), and (h);

5. Have paid all fines and completed all requirements resulting from any adverse action against any license or compact privilege, and 2 years have elapsed from the date of such completion;

6. Notify the commission that the licensee is seeking the compact privilege within a remote state(s);

7. Pay any applicable fees, including any state fee, for the compact privilege;

8. Complete a criminal background check in accordance with sub. (3) (a) 5.;

a. The licensee shall be responsible for the payment of any fee associated with the completion of a criminal background check.

9. Meet any jurisprudence requirements established by the remote state(s) in which the licensee is seeking a compact privilege; and

10. Report to the commission adverse action taken by any non-member state within 30 days from the date the adverse action is taken.

(b) The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of par. (a) to maintain the compact privilege in the remote state.

(c) A licensee providing occupational therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

(d) Occupational therapy assistants practicing in a remote state shall be supervised by an occupational therapist licensed or holding a compact privilege in that remote state.

(e) A licensee providing occupational therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The licensee may be ineligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

(f) If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

1. The home state license is no longer encumbered; and

2. Two years have elapsed from the date on which the home state license is no longer encumbered in accordance with subd. 1.

(g) Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of par. (a) to obtain a compact privilege in any remote state.

(h) If a licensee's compact privilege in any remote state is removed, the individual may lose the compact privilege in any other remote state until the following occur:

1. The specific period of time for which the compact privilege was removed has ended;
2. All fines have been paid and all conditions have been met;
3. Two years have elapsed from the date of completing requirements under subds. 1. and 2; and
4. The compact privileges are reinstated by the commission and the compact data system is updated to reflect reinstatement.

(i) If a licensee's compact privilege in any remote state is removed due to an erroneous charge, privileges shall be restored through the compact data system.

(j) Once the requirements of par. (h) have been met, the license must meet the requirements in par. (a) to obtain a compact privilege in a remote state.

(5) OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF COMPACT PRIVILEGE. (a) An occupational therapist or occupational therapy assistant may hold a home state license, which allows for compact privileges in member states, in only one member state at a time.

(b) If an occupational therapist or occupational therapy assistant changes primary state of residence by moving between two member states:

1. The occupational therapist or occupational therapy assistant shall file an application for obtaining a new home state license by virtue of a compact privilege, pay all applicable fees, and notify the current and new home state in accordance with applicable rules adopted by the commission.

2. Upon receipt of an application for obtaining a new home state license by virtue of compact privilege, the new home state shall verify that the occupational therapist or occupational therapy assistant meets the pertinent criteria outlined in sub. (4) via the data system, without need for primary source verification except for:

a. An FBI fingerprint based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the commission in accordance with P.L. 92-544;

b. Other criminal background check as required by the new home state; and

c. Submission of any requisite jurisprudence requirements of the new home state.

3. The former home state shall convert the former home state license into a compact privilege once the new home state has activated the new home state license in accordance with applicable rules adopted by the commission.

4. Notwithstanding any other provision of this compact, if the occupational therapist or occupational therapy assistant cannot meet the criteria in sub. (4), the new

home state shall apply its requirements for issuing a new single-state license.

5. The occupational therapist or the occupational therapy assistant shall pay all applicable fees to the new home state in order to be issued a new home state license.

(c) If an occupational therapist or occupational therapy assistant changes primary state of residence by moving from a member state to a non-member state, or from a non-member state to a member state, the state criteria shall apply for issuance of a single-state license in the new state.

(d) Nothing in this compact shall interfere with a licensee's ability to hold a single-state license in multiple states; however, for the purposes of this compact, a licensee shall have only one home state license.

(e) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

(6) ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES. (a) Active duty military personnel, or their spouses, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change their home state through application for licensure in the new state or through the process described in sub. (5).

(7) ADVERSE ACTIONS. (a) A home state shall have exclusive power to impose adverse action against an occupational therapist's or occupational therapy assistant's license issued by the home state.

(b) In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:

1. Take adverse action against an occupational therapist's or occupational therapy assistant's compact privilege within that member state.

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

(c) For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing,

the home state shall apply its own state laws to determine appropriate action.

(d) The home state shall complete any pending investigations of an occupational therapist or occupational therapy assistant who changes primary state of residence during the course of the investigations. The home state, where the investigations were initiated, shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the OT compact commission data system. The occupational therapy compact commission data system administrator shall promptly notify the new home state of any adverse actions.

(e) A member state, if otherwise permitted by state law, may recover from the affected occupational therapist or occupational therapy assistant the costs of investigations and disposition of cases resulting from any adverse action taken against that occupational therapist or occupational therapy assistant.

(f) A member state may take adverse action based on the factual findings of the remote state, provided that the member state follows its own procedures for taking the adverse action.

(g) *Joint investigations.* 1. In addition to the authority granted to a member state by its respective state occupational therapy laws and regulations or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(h) If an adverse action is taken by the home state against an occupational therapist's or occupational therapy assistant's license, the occupational therapist's or occupational therapy assistant's compact privilege in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an occupational therapist's or occupational therapy assistant's license shall include a statement that the occupational therapist's or occupational therapy assistant's compact privilege is deactivated in all member states during the pendency of the order.

(i) If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.

(j) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

(8) ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT COMMISSION. (a) The compact member states hereby create and establish a joint public agency known as the occupational therapy compact commission:

1. The commission is an instrumentality of the compact states.

2. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(b) *Membership, voting, and meetings.* 1. Each member state shall have and be limited to one delegate selected by that member state's licensing board.

2. The delegate shall be either:

a. A current member of the licensing board, who is an occupational therapist, occupational therapy assistant, or public member; or

b. An administrator of the licensing board.

3. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

4. The member state board shall fill any vacancy occurring in the commission within 90 days.

5. Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

6. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

7. The commission shall establish by rule a term of office for delegates.

(c) The commission shall have the following powers and duties:

1. Establish a code of ethics for the commission;

2. Establish the fiscal year of the commission;

3. Establish bylaws;

4. Maintain its financial records in accordance with the bylaws;

5. Meet and take such actions as are consistent with the provisions of this compact and the bylaws;

6. Promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states;

7. Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state occupational therapy licensing board to sue or be sued under applicable law shall not be affected;

8. Purchase and maintain insurance and bonds;

9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state.

10. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

11. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and receive, utilize and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety and/or conflict of interest;

12. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed; provided that at all times the commission shall avoid any appearance of impropriety;

13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

14. Establish a budget and make expenditures;

15. Borrow money;

16. Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

17. Provide and receive information from, and cooperate with, law enforcement agencies;

18. Establish and elect an executive committee; and

19. Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of occupational therapy licensure and practice.

(d) *The executive committee.* The executive committee shall have the power to act on behalf of the commission according to the terms of this compact.

1. The executive committee shall be composed of 9 members:

a. Seven voting members who are elected by the commission from the current membership of the commission;

b. One ex-officio, nonvoting member from a recognized national occupational therapy professional association; and

c. One ex-officio, nonvoting member from a recognized national occupational therapy certification organization;

2. The ex-officio members will be selected by their respective organizations.

3. The commission may remove any member of the executive committee as provided in bylaws.

4. The executive committee shall meet at least annually.

5. The executive committee shall have the following duties and responsibilities:

a. Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states such as annual dues, and any commission compact fee charged to licensees for the compact privilege;

b. Ensure compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the commission;

e. Monitor compact compliance of member states and provide compliance reports to the commission;

f. Establish additional committees as necessary; and

g. Perform other duties as provided in rules or bylaws.

(e) 1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in sub. (10).

2. The commission or the executive committee or other committees of the commission may convene in a closed, non-public meeting if the commission or executive committee or other committees of the commission must discuss:

a. Non-compliance of a member state with its obligations under the compact;

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees, or other matters related to the commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

4. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(f) *Financing of the commission.* 1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved by the commission each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

4. The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(g) *Qualified immunity, defense, and indemnification.* 1. The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this subdivision shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

(9) DATA SYSTEM. (a) The commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

(b) A member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable (utilizing a unique identifier) as required by the rules of the commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse actions against a license or compact privilege;
4. Non-confidential information related to alternative program participation;
5. Any denial of application for licensure, and the reason(s) for such denial;
6. Other information that may facilitate the administration of this compact, as determined by the rules of the commission; and
7. Current significant investigative information.

(c) Current significant investigative information and other investigative information pertaining to a licensee in any member state will only be available to other member states.

(d) The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

(e) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(f) Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

(10) RULEMAKING. (a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this subsection and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(b) The commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the compact. Notwithstanding the foregoing, in the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect.

(c) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within 4 years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(d) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(e) Prior to promulgation and adoption of a final rule or rules by the commission, and at least 30 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

1. On the website of the commission or other publicly accessible platform; and
2. On the website of each member state occupational therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules;

(f) The notice of proposed rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;
2. The text of the proposed rule or amendment and the reason for the proposed rule;
3. A request for comments on the proposed rule from any interested person; and
4. The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(g) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(h) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least 25 persons;
2. A state or federal governmental subdivision or agency; or
3. An association or organization having at least 25 members.

(i) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than 5 business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings will be recorded. A copy of the recording will be made available on request.

4. Nothing in this subsection shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this subsection.

(j) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(k) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(L) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(m) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this subsection shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of commission or member state funds;
3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
4. Protect public health and safety.

(n) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting

typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

(11) OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT. (a) *Oversight.* 1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.

3. The commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

(b) *Default, technical assistance, and termination.*

1. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, and/or any other action to be taken by the commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

6. The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(c) *Dispute resolution.* 1. Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.

2. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(d) *Enforcement.* 1. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

(12) DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT. (a) The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(b) Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force

and effect of law on the day the compact becomes law in that state.

(c) Any member state may withdraw from this compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until 6 months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's occupational therapy licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(d) Nothing contained in this compact shall be construed to invalidate or prevent any occupational therapy licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

(e) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

(13) CONSTRUCTION AND SEVERABILITY. This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

(14) BINDING EFFECT OF COMPACT AND OTHER LAWS.

(a) A licensee providing occupational therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

(b) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

(c) Any laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(d) Any lawful actions of the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(e) All agreements between the commission and the member states are binding in accordance with their terms.

(f) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

448.9875 Implementation of the occupational therapy licensure compact. (1) In this section:

(a) "Compact" means the occupational therapy licensure compact under s. 448.987.

(b) "Compact privilege" means a compact privilege, as defined in s. 448.987 (2) (d), that is granted under the compact to an individual to practice in this state.

(c) "Examining board" means the occupational therapists affiliated credentialing board.

(2) The department may impose a fee for an individual to receive a compact privilege as provided in s. 448.987 (3) (c).

(3) The 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.

(4) (a) An individual who holds a compact privilege shall comply with s. 440.03 (13) (am).

(b) Subject to s. 448.987 and any rules promulgated thereunder, ss. 440.20 to 440.22 and the rules promulgated under s. 440.03 (1) shall apply to an individual who holds a compact privilege in the same manner that they apply to holders of licenses issued under subch. VII.

SECTION 21. 450.10 (3) (a) 5. of the statutes is amended to read:

450.10 (3) (a) 5. A physician, physician assistant, podiatrist, physical therapist, physical therapist assistant, occupational therapist, or occupational therapy assistant licensed under ch. 448 ~~or~~ a physical therapist or physical therapist assistant who holds a compact privilege under subch. IX of ch. 448, or an occupational therapist or occupational therapy assistant who holds a compact privilege under subch. XI of ch. 448.

SECTION 22. 451.02 (1) of the statutes is amended to read:

451.02 (1) An individual holding a license, permit or certificate under ch. 441, 446, 447, 448, or 449 or a compact privilege under subch. IX or XI of ch. 448 who engages in a practice of acupuncture that is also included within the scope of his or her license, permit ~~or~~ certificate, or privilege.

SECTION 23. Nonstatutory provisions.

(1) The occupational therapists affiliated credentialing board and the department of safety and professional services may promulgate emergency rules under s. 227.24 necessary to implement this act. Notwithstanding s. 227.24 (1) (c) and (2), emergency rules promulgated under this subsection remain in effect until May 1, 2024, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding s. 227.24 (1) (a) and (3), neither the board nor the department is required to provide evidence that promulgating a rule

under this subsection as an emergency rule is necessary
for the preservation of the public peace, health, safety,

or welfare or provide a finding of emergency for a rule
promulgated under this subsection.

**Occupational Therapists Affiliated Credentialing Board
Rule Projects (updated 11/22//22)**

Clearinghouse Rule Number	Scope #	Scope Expiration	Code Chapter Affected	Relating clause	Current Stage	Next Step
Not Assigned Yet	072-22	02/22/2025	OT 1 to 5	Implementation of the Occupational Therapy Licensure Compact	Drafting	Board Review and Approval of Emergency Rule Draft
21-033	087-20	01/06/2023	OT 1 to 6	Telehealth	Submitted to the Governor's Office for Review on 11/15/22	Legislative Review after 01/03/2023
22-027	001-21	07/04/2023	OT 2	Licensure Requirements	Legislative Review after 01/03/2023	Board Review of Adoption Order at a Future Meeting
22-028	044-21	11/03/2023	OT 3	Continuing Education	Legislative Review after 01/03/2023	Board Review of Adoption Order at a Future Meeting



PUBLIC AGENDA REQUEST FORM

Instructions:

1. Fill out this form, and then save to your device.
2. Return to the “[Suggest an Agenda Item](#)” page and select the appropriate Board or Council from the Board/Council list.
3. Attach your completed “Public Agenda Request” form and send.

First Name: Jim

Last Name: Steineke

Association/Organization: The Welch Group/Wisconsin Occupational Therapy Association

Subject: Establishing an Examining Board for Occupational Therapy in DPS

Issue to Address: The Wisconsin Occupational Therapy Association is requesting that a bill be drafted that would create an independent Occupational Therapy Examining Board through the Department of Safety and Professional Services (DPS). The role of the licensing board is to discipline professionals for infractions such as patient harm, and Medicaid fraud, establish the scope of OT practice, establish professional standards for OT practitioners. They write questions for the open book test on the law and administrative rules and oral exam, and administer the oral exam several times a year. The board also monitors continued competency of practitioners through monitoring Continuing Education. Under the current DPS Occupational Therapy functions as an affiliated credentialing board. They are affiliated with the Medical Examining Board. This means the MEB has oversight of the OT Affiliated credentialing Board and any changes made to the OT administrative rules. This relationship between the Medical Examining board and the OT certification board was established with OTs regulation in 1989 and it has served OT well for many years. However, the scope of OT practice has expanded to more community-based practice in the last 33 years. While OT maintains its practice in medical settings, hospitals, clinics, and skilled nursing facilities, the context of OT practice in Wisconsin has expanded and the need for oversight from the Medical Examining Board has greatly decreased. The primary reason for this request is that as of 2016 Occupational Therapy no longer requires physician referral to access their services unless reimbursement requires it. OTs work with large populations that are not acutely ill or under the care of physician for a current medical condition, such as children with behavioral issues, altering home, school and work environments so individuals who have had health issues can engage in their occupations in those settings. Therefore, OTs no longer need to be overseen by the Medical Examining Board. Physical Therapy is the therapeutic counterpart to OT in many practice settings and has been overseen by an independent Examining Board for 13 years. They were affiliated with the Medical Examining Board until they established the PT Examining board. It is anticipated that there would not be a cost for this change since the OTACB would continue to perform the same functions, just without the general oversight from the MEB. The MEB has several boards affiliated with it, removing the OT board from their oversight could help to reduce their work load.