STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR

BOARD OF OCCUPATIONAL THERAPY
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BOARD MEETING NOTICE AND AGENDA

November 4, 2010

University of St. Augustine
700 Windy Point Drive, Bldg. A
San Marcos, CA 92069

(760) 591-3012 *Directions only*

9:00 a.m. – Board meeting

The public may provide comment on any issue before the board at the time the matter is discussed.

1. Call to order, roll call, establishment of a quorum.

2. President's remarks. *(M. Evert)*

3. Board member updates/activities.

4. Approval of the July 28-29, 2010, Board meeting minutes. *(M. Evert)*

5. Director's Report - *Representative from Department of Consumer Affairs*
   A. Enforcement Reform: Consumer Protection Enforcement Initiative (CPEI)
   B. SB 1441 - Uniform Standards (SB 1441) Regarding Substance Abusing Healing Arts licensees
   C. Federal Healthcare Reform
   D. Other Items of Interest

6. Practice Committee Report. *(L. Florey)*
   A. Practice Committee's Roles and Responsibilities and recommended changes to the Board.
   B. Board-approved legislative proposal to amend definition of Occupational Therapy, Business and Professions Code Section 2570.2(k), and recommendation to the Board.
   C. Discussion of specialized occupational therapy skills acquired post entry-level recognition of various certification organizations, and recommendation to the Board.
   D. Discussion and consideration of amending Title 16, Division 39, Section 4161, Continuing Competency, and recommendation to the Board.
   E. Selection of 2011 Practice Committee meeting dates.

7. American Occupational Therapy Association's request that Board reconsider regulatory language to amend Title 16, Division 39, California Code of Regulations (CCR) Section 4123, Limited Permit, and add section 4125, Representation, adopted at July 28th Board meeting. *(H. Martin)*

8. Discussion and consideration of adding Title 16, Division 39, CCR Section 4171, Notification to Consumers. *(H. Martin)*

9. Regulations Update. *(H. Martin)*

10. Legislation Update. *(H. Martin)*
    A. Consideration of adding new Business and Professions Code Section requiring registration of occupational therapy aides.
    B. Any other bills of interest to the Board.

11. Executive Officer's report. *(H. Martin)*
    A. Revenue and expenditure information.
    B. Personnel updates.
    C. Other informational items.

12. Enforcement data and reports. *(H. Martin)*

13. Public comment session for items not on the agenda.

14. Discussion and consideration of future agenda items at March 3, 2011, meeting.

15. The Board will convene in CLOSED SESSION pursuant to Government Code Section 11126(a)(1) for the Evaluation of the Executive Officer.

16. The Board will convene in CLOSED SESSION pursuant to Government Code Section 11126(c)(3) to deliberate on Disciplinary Decisions.

Return to Open Session.

Adjournment.

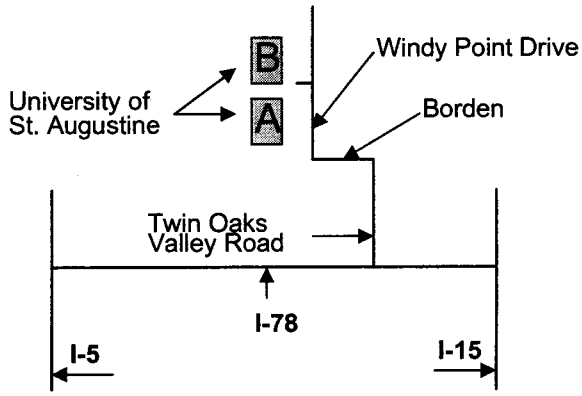
UNIVERSITY OF ST. AUGUSTINE

FOR HEALTH SCIENCES

700 Windy Point Drive, Bldg. A
San Marcos, CA 92069
(760) 591-3012

Directions:

- From I-78, go **north** on Twin Oaks Valley Road
- **Left** on Borden
- **Right** on Windy Point Drive
- **Left** into Campus, (Bldg. A)



APPROVAL OF JULY 28-29, 2010, BOARD MEETING MINUTES.

The draft minutes are attached for review.

ITEM
TO BE
PROVIDED

PRACTICE COMMITTEE REPORT.

The following were included in the Practice Committee meeting materials:

A. Practice Committee's Roles and Responsibilities.
B. Legislative proposal to amend BPC 2570.2(k) approved at July Board meeting, letter from AOTA re: proposed amendment to Definition of Occupational Therapy Practice for the AOTA Model Practice Act and the proposal, and AOTA's document entitled Occupational Therapy Research Agenda.
C. No attachment.
D. Proposed amendment to CCR 4161.
E. No attachment.

California Board of Occupational Therapy

PRACTICE COMMITTEE

Roles & Responsibilities

1. Review and provide recommendations to Board staff on *Applications for Advanced Practice Post-Professional Education* received from course providers;

2. Review and provide recommendations to Board staff on initial applications for licenses/certificates received from individuals who have not been engaged in the practice occupational therapy for five years;

3. Review and provide recommended responses to the Board on various practice issues/questions submitted by licensees and consumers;

4. Provide guidance on continuing competency audits, including reviewing and providing recommendations on audit responses, if necessary;

5. Review and provide recommendations to Board staff on applicants for the Expert Reviewer Program;

6. Review and provide recommendations to Board staff on revisions to various applications and forms used by the Board;

7. Review and provide recommendations to the Board on practice related proposed regulatory amendments.

8. Establish resource pool of Expert Reviewers to review and provide recommendations to Board staff on *Applications for Advanced Practice Approval* in hand therapy, physical agent modalities, and swallowing assessment, evaluation, or intervention.

Amend Business & Professions Code Section 2570.2(k)

(k) "~~Practice of~~ eOccupational therapy" means the therapeutic use of purposeful and meaningful goal-directed activities (occupations) which engage the individual's body and mind in meaningful, organized, and self-directed actions that maximize independence, prevent or minimize disability, and promote or maintain health, well being, and quality of life. Occupational therapy services encompass research, education of students, occupational therapy assessment, treatment, education of, and consultation with~~, individuals who have been referred for occupational therapy services subsequent to diagnosis of disease or disorder (or who are receiving occupational therapy services as part of an Individualized Education Plan (IEP) pursuant to the federal Individuals with Disabilities Education Act (IDEA)).~~ individuals, groups, programs, organizations, or communities.

(1) Occupational therapy assessment identifies performance abilities and limitations that are necessary for self-maintenance, learning, work, and other similar meaningful activities. Occupational therapy treatment is focused on developing, improving, or restoring functional daily living skills, compensating for and preventing dysfunction, or minimizing disability. Occupational therapy techniques that are used for treatment involve teaching activities of daily living (excluding speech-language skills); designing or fabricating selective temporary orthotic devices, and applying or training in the use of assistive technology or orthotic and prosthetic devices excluding gait training). Occupational therapy consultation provides expert advice to enhance function and quality of life. Consultation or treatment may involve modification of tasks or environments to allow an individual to achieve maximum independence. Services are provided individually~~,~~ or in groups~~., or through social groups.~~

(2) The licensed occupational therapist or occupational therapy assistant may assume a variety of roles in their profession, including but not limited to, clinician, supervisor of occupational therapy students and volunteers, researcher, scholar, consultant, administrator, faculty, clinical instructor, continuing education instructor and educator of consumers/clients. The term "client" is used to name the entity that receives occupational therapy services. Clients may be categorized as:

a) individuals, including individuals who may be involved in supporting or caring for the client (i.e. caregiver, teacher, parent, employer, spouse);

b) individuals within the context of a group (e.g., a family, a class); or

c) individuals within the context of a population (e.g., an organization, a community).

(l) "Hand therapy" is the art and science of rehabilitation of the hand, wrist, and forearm requiring comprehensive knowledge of the upper extremity and specialized skills in assessment and treatment to prevent dysfunction, restore function, or reverse the advancement of pathology. This definition is not intended to prevent an occupational therapist practicing hand therapy from providing other occupational therapy services authorized under this act in conjunction with hand therapy.

(m) "Physical agent modalities" means techniques that produce a response in soft tissue through the use of light, water, temperature, sound, or electricity. These techniques are used as adjunctive methods in conjunction with, or in immediate preparation for, occupational therapy services.

AOTA The American Occupational Therapy Association, Inc.

MEMORANDUM

TO: AOTA Board of Directors
Representative Assembly
Affiliated State Association Presidents
Commission on Practice
Commission on Continuing Competence and Professional Development
Special Interest Section Steering Committee
Accreditation Council for Occupational Therapy Education
Association of Student Delegates Steering Committee
Commission on Education
Ethics Commission
Education Program Directors
State Legislative Chairpersons
State Occupational Therapy Regulatory Boards
Paul Grace, President and CEO, NBCOT
AOTA Staff

FROM: Chuck Willmarth
Director, State Affairs and Reimbursement & Regulatory Policy

Marcy Buckner, JD
State Policy Analyst

DATE: September 23, 2010

SUBJECT: Feedback regarding the revised Definition of Occupational Therapy Practice for the AOTA Model Practice Act

AOTA has worked with state occupational therapy associations to enact state licensure laws for more than 30 years. Part of that support has included the development of reference documents such as the *AOTA Model Practice Act*, which includes a definition of occupational therapy practice.

The *Definition of Occupational Therapy Practice for the AOTA Model Practice Act* reflects the current scope of practice of occupational therapy and consistency with other AOTA documents. It is intended for use by state associations and state regulatory boards in updating state practice acts to reflect current practice and terminology. Once enacted into law, the definition legally defines the occupational therapy scope of practice in state statutes.

Revisions to the definition were last adopted by the RA in 2004. In June 2010, AOTA's State Affairs Group sought input from the Association's leadership, external stakeholders, and the membership in order to facilitate revisions to the definition. The input that was submitted was reviewed by AOTA staff, and has been compiled in to a revised version of the definition. We are now seeking comments on the revised version of the definition through this Zoomerang Survey: http://www.zoomerang.com/Survey/WEB22B6PWLFCCA.

The survey breaks the existing definition paired with the revised definition into six sections to provide feedback and then asks three general questions about the document. In the revised text, words with a strikethrough have been deleted and words with an underline have been added.

You may also submit proposed edits to the document using the "track changes" feature in WORD to stpd@aota.org. You may access the revised definition in WORD here: http://www.aota.org/DocumentVault/Surveys/Model-Def-Revision.aspx

Please complete the survey and/or submit feedback by October 29, 2010. Your input in this process will help define the occupational therapy scope of practice as the profession works to realize the Centennial Vision.

Draft Revisions to the Model Definition of Occupational Therapy Practice based on Stakeholder Input - September 2010
Please submit comments to stpd@aota.org by October 29, 2010.

Note: Text with a ~~strikethrough~~ has been deleted and text with an underline has been added. Sections A and B in the current version were switched in the revised version, so A is now B and B is now A.

Definition of Occupational Therapy Practice for the AOTA Model Practice Act

The practice of occupational therapy means the therapeutic use of everyday life activities (occupations) with individuals ~~or~~ groups, or populations ~~for the purpose of~~ to address participation and function in roles and situations in home, school, workplace, community, and other settings. Occupational therapy services are provided ~~for the purpose of promoting~~ for habilitation, rehabilitation, and promoting health and wellness ~~and~~ to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Occupational therapy addresses the physical, cognitive, psychosocial, sensory, and other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect physical and mental health, well-being, and quality of life.

The practice of occupational therapy includes:

A. Evaluation of factors affecting activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, rest and sleep, leisure, and social participation, including:
   1. Client factors, including body functions (such as neuromuscular, sensory and pain, visual, mental, perceptual, cognitive) and body structures (such as cardiovascular, digestive, nervous, integumentary, genitourinary systems), values, beliefs, and spirituality.
   2. Habits, routines, roles, rituals, and behavior patterns.
   3. Cultural, physical, environmental, social, and ~~spiritual~~ virtual contexts and activity demands that affect performance.
   4. Performance skills, including motor and praxis, ~~process~~, sensory-perceptual, emotional regulation, cognitive, and communication~~/interaction~~ and social skills.

B. Methods or ~~strategies~~ approaches selected to direct the process of interventions such as:
   1. Establishment, ~~remediation~~, retention, or restoration of a skill or ability that has not yet developed ~~or~~ is impaired, or is in decline.
   2. Compensation, modification, or adaptation of activity or environment to enhance performance.
   3. ~~Maintenance~~ Retention and enhancement of ~~capabilities~~ skills or abilities without which performance in everyday life activities would decline.
   4. ~~Health promotion~~ Promotion of health and wellness, including the use of self-management strategies, to enable or enhance performance in everyday life activities.
   5. Prevention of barriers to performance and participation, including disability prevention.

C. Interventions and procedures to promote or enhance safety and performance in activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, rest and sleep, leisure, and social participation, including:
   1. Therapeutic use of occupations, exercises, and activities.
   2. Training in self-care, self-management, health management and maintenance, home management, and community/work reintegration.
   3. Development, remediation, or compensation of physical, mental, cognitive, neuromuscular, sensory functions and behavioral skills.
   4. Therapeutic use of self, including one's personality, insights, perceptions, and judgments, as part of the therapeutic process.
   5. Education and training of individuals, including family members, caregivers, groups, and others.
   6. Care coordination, case management, and transition services.
   7. Consultative services to groups, programs, organizations, or communities.

8. Modification of environments (home, work, school, or community) and adaptation of processes, including the application of ergonomic principles.
9. Assessment, design, fabrication, application, fitting, and training in seating and positioning, assistive technology, adaptive devices, and orthotic devices, and training in the use of prosthetic devices.
10. Assessment, recommendation, and training in techniques to enhance functional mobility, including ~~wheelchair~~ management of wheelchairs and other mobility devices.
11. Low vision rehabilitation.

~~11.~~ 12. Driver rehabilitation and community mobility.

~~12.~~ 13. Management of feeding, eating, and swallowing to enable eating and feeding performance.

~~13.~~ 14. Application of physical agent modalities, and use of a range of specific therapeutic procedures (such as wound care management; techniques to enhance sensory, perceptual, and cognitive processing; manual therapy techniques) to enhance performance skills.

Adopted by the Representative Assembly 5/21/04 (Agenda A11, Charge 60)

AOTF THE AMERICAN OCCUPATIONAL THERAPY FOUNDATION

AOTA® The American Occupational Therapy Association, Inc.

4720 Montgomery Lane • PO Box 31220 • Bethesda, Maryland 20824-1220

OCCUPATIONAL THERAPY RESEARCH AGENDA

The Occupational Therapy (OT) Research Agenda identifies the major research goals and priorities for occupational therapy research. The goals and priorities span five categories: Assessment/measurement, **Intervention Research**, Basic Research, **Translational Research**, and **Health Services Research**. A sixth related category, Research Training, addresses capacity building to accomplish the research goals and priorities.

Three of the five research categories—**Intervention Research, Translational Research, and Health Services Research**—are recognized as being of paramount importance for the next decade because it is imperative that the efficacy and effectiveness of occupational therapy interventions be ascertained; that the optimal dose, frequency, duration, and location of occupational therapy interventions be determined; and that the salient elements (or active ingredients) of occupational therapy interventions be identified. The study of occupational engagement and participation, problems in engagement and participation, and interventions to restore, prevent or compensate for problems in engagement and participation is complex and requires the collaboration of scholars from various disciplines, thus placing occupational therapy research in an interdisciplinary context.

This emphasis on **intervention/prevention**, **translational**, and **health services** research is consistent with the American Occupational Therapy Association's Centennial Vision of occupational therapy as "a powerful, widely recognized, science-driven, and evidence-based profession." It is also consistent with the National Institutes of Health (NIH) Roadmap, the Initial National Priorities for Comparative Effectiveness Research put forth by the Institute of Medicine of the National Academies (June, 2009), the Testimony of the Disability and Rehabilitation Coalition before the Interagency Committee on Disability Research (August 13, 2008), the Effective Health Care Program of the Agency for Healthcare Research and Quality (AHRQ) (2008), and the comments by Senator Baucus (D-Mont) on Introduction of The Comparative Effectiveness Research Act of 2008 (August 1, 2008). Simply stated, our clients (patients) want the most effective interventions for their performance problems and occupational therapy practitioners want to provide them with these interventions. However, for practitioners to provide the most effective interventions, occupational therapy interventions must be defined, described, and tested, so that practitioners know what is effective for which clients. **Treatment effectiveness** takes into account considerations such as: what mixture (e.g., interesting task + progressive grading of cognitive components of task + modeling) of

occupational therapy is needed to promote positive change (can be delivered in a reproducible manner—is manualized); how strong must the intervention be to promote positive change (dose), how often must clients (patients) participate in the intervention to promote positive change (frequency); how long must the intervention be delivered to promote change (duration), and where (location) is the best place (hospital, school, home, workplace, community) for the intervention to occur. Likewise, **prevention** activities extend the role and function of occupational therapy into community activities aimed to promote occupational engagement and participation of the total population and to prevent secondary conditions among those already living with disabling conditions. Prevention research generally addresses a particularly vulnerable, but as yet unaffected, segment of the population with an emphasis on promoting occupation and preventing secondary conditions. This area, also, is in its infancy in occupational therapy and requires efficacy and effectiveness studies, but may require a more population-based approach to methodology.

The intent of placing a priority on **intervention, translational,** and **health services** research is to stimulate research on occupational therapy interventions. In examining occupational therapy interventions priority is given to interventions that are client-centered, occupation-based, theory-driven, and manualized. Recognizing that the science of occupational therapy practice is in its infancy, the priority is broadly defined to include preliminary work leading to efficacy (research under tightly controlled conditions) or effectiveness (research under real-world conditions) trials, that is, it includes "proof of concept" studies of interventions (including quantitative, qualitative, and mixed methodologies); pilot, feasibility studies of interventions; and, single-subject intervention studies.

Research Categories	Major Research Goals	Research Priorities
Assessment/ Measurement	▪ Develop screening instruments to determine functional ability across the lifespan, with acceptable sensitivity and specificity. ▪ Develop outcome instruments sufficiently responsive to measuring change in daily life activities, including activity and participation. ▪ Develop and evaluate strategies for identifying and/or measuring the health impact of environments on activity engagement and participation in daily life. ▪ Develop and evaluate strategies for identifying and/or measuring the influence of activity engagement in daily life on health.	▪ Screening instruments to identify performance deficits in persons of all ages with chronic disorders and disability. ▪ Instruments for simultaneously evaluating person–occupation–environment (context).

Research Categories	Major Research Goals	Research Priorities
Intervention—Preventive, Restorative, Compensatory: To promote function/wellness in people of all ages—those without disabilities, those with (or at-risk for) disabilities, and/or chronic health problems.	▪ Devise a taxonomy of occupational therapy/rehabilitative interventions (so that the content of occupational therapy can be uniformly described). ▪ Evaluate the *efficacy* of occupational therapy interventions (in controlled conditions). ▪ Create novel, theory based interventions for promoting activity/participation/occupation and improving quality of life. ▪ Determine a means of evaluating the outcomes of occupational therapy interventions and prevention strategies in an interdisciplinary and translational context.	▪ Application of interventions that: 1) Are client-centered (i.e., personalized). 2) Manipulate an occupational therapy modality/method (i.e., use as the method of change): a) Occupation (i.e., activity/participation based) b) Cognitive, sensory, motor, and/or affective functions (i.e., impairment-oriented) c) The environment (i.e., lived-in, virtual; technology, including splints) 3) Are theory driven (e.g., motor learning theory, self-efficacy theory). 4) Are manualized (i.e., structured, and hence replicable). 5) Involve a priority population: defined as a subpopulation of concern both to society and to the field of occupational therapy and its interventions (see Addendum).

Research Categories	Major Research Goals	Research Priorities
Translational Research	▪ Evaluate the *effectiveness* of occupational therapy interventions (under conditions of usual care). ▪ Examine the implications of novel developments in sciences related to occupational therapy (e.g., medical/biopsychosocial/occupational/environmental) for the science and practice of occupational therapy. ▪ Examine change processes, whereby new ideas are diffused and adopted in theory and practices.	▪ Examine the effects of stem cell transplantation, neural implants and other novel and developing medical therapies on functional recovery (e.g., when is the best time to intervene to promote recovery of body structures/functions, activity, or participation). ▪ Apply the methods of computational modeling to predict functional recovery (e.g., mathematical modeling of how hand function will improve following hand surgery and rehabilitation services).

(Cont. from pg. 3)

Research Categories	Major Research Goals	Research Priorities
Basic Research: 1) The experience of disability and/or chronic health problems for individuals and their families across the life span. 2) Examination of body structures and functions supporting performance in daily life.	▪ Examine relationships among impairment (body structures and functions), activity (activity limitations), and participation (participation restrictions). ▪ Delineate how productive occupation promotes lifelong health and reduces the risk of chronic disease and disability and maintain quality of life in people of all ages. ▪ Identify determinants of healthy lifestyles. ▪ Examine the response of individuals and their families to changes in functional independence. ▪ Examine intrinsic mechanisms (e.g., genetic, physiological, psychological [sensory-perceptual-motor, cognitive]) and how they support performance in daily life. ▪ Examine extrinsic mechanisms (e.g., technology, social support, culture, social policies) and how they support performance in daily life.	▪ Examine brain-behavior relationships in daily life activities.

(Cont. from pg. 4)

Research Categories	Major Research Goals	Research Priorities
Health Services Research	▪ Evaluate performance outcomes for diagnostic groups based on type of occupational therapy intervention, site of service delivery, professional training, and/or team composition. ▪ Evaluate performance outcomes for racial/ethnic groups based on type of occupational therapy intervention, site of service delivery, professional training, and/or team composition. ▪ Design and implement community-based participatory research to "increase the relevance, acceptability, and usefulness of evidence-based scientific findings in improving" occupational therapy (rehabilitation).	▪ Develop and implement a database for use in outcomes research and quality improvement studies. ▪ Identify quality indicators for evaluating occupational therapy services and outcomes. ▪ Design and implement studies comparing the effectiveness of different treatment options, including different occupational therapy approaches and different rehabilitation approaches. ▪ Examine the effects of evidence-based evaluation and intervention guidelines on occupational therapy practice. ▪ Identify where practice lags behind practice guidelines to provide evidence of need for quality indicators. ▪ Identify, develop, and evaluate occupational therapy's role in community preparedness.

Research Categories	Major Research Goals	Research Priorities
Research Training	▪ Increase occupational therapy's research capacity. ▪ Socialize occupational therapy educators to preparing occupational therapy scientists. ▪ Expand occupational therapy's knowledge and skills in using population-based research for the purpose of prevention and promotion of occupation.	▪ Prepare Program Directors in research universities to support early career (< 5 years post doctoral degree) occupational therapist scientists. ▪ Prepare doctoral students to conduct intervention research. ▪ Financially support intervention research of early career (< 5 years post doctoral degree) occupational therapist scientists and doctoral students.

Addendum: Priority Populations; including individuals desiring to enhance their occupational function and health, and those who live with:

1. Developmental disorders (e.g., autism spectrum disorders, cerebral palsy, intellectual disabilities)
2. Physical impairments (e.g., stroke, obesity, cancer, spinal cord injuries, hand injuries, work injuries)
3. Cognitive impairments (e.g., dementia, traumatic brain injury, stroke)
4. Mental disorders (e.g., depression, posttraumatic stress disorder, persistent mental illness)
5. Chronic health conditions (e.g., arthritis, diabetes)
6. People with preventable secondary conditions (e.g., diabetic neuropathy, decubitus ulcers, social isolation, sedentary lifestyle)

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

PROPOSED AMENDED REGULATORY LANGUAGE
Title 16, Division 39, California Code of Regulations

Proposed amendments are shown by strikeout for deleted text and underlined for new text.

Article 7. Continuing Competency Requirements

§ 4161. Continuing Competency.

(a) Effective January 1, 2006, each occupational therapy practitioner renewing a license or certificate under Section 2570.10 of the Code shall submit evidence of meeting continuing competency requirements by having completed twenty-four (24) professional development units (PDUs) during the preceding renewal period, ~~twelve (12) PDUs for each twelve month period,~~ acquired through participation in professional development activities.

(1) One (1) hour of participation in a professional development activity qualifies for one PDU;

(2) One (1) academic credit equals 10 PDUs;

(3) One (1) Continuing Education Unit (CEU) equals 10 PDUs.

(b) Topics and subject matter shall be pertinent to the practice of OT. Course material must have a relevance or direct application to a consumer of occupational therapy services. Except as provided in subdivision (c), p~~P~~rofessional development activities acceptable to the board include ~~but are not limited to,~~ programs or activities sponsored by the American Occupational Therapy Association (AOTA) or the Occupational Therapy Association of California; post-professional coursework completed through any approved or accredited educational institution, ~~that is not part of a course of study leading to an academic degree~~; or otherwise meets all of the following criteria:

(1) The program or activity contributes directly to professional knowledge, skill, and ability;

~~(2) The program or activity relates directly to the practice of occupational therapy;~~ and

~~(3)~~ (2) The program or activity must be objectively measurable in terms of the hours involved.

(c) PDUs may also be obtained through any or a combination of the following:

(1) Involvement in structured special interest or study groups with a minimum of three (3) participants. Three (3) hours of participation equals one (1) PDU, with a maximum of six (6) PDUs credited per renewal period.

(2) Structured mentoring with an individual skilled in a particular area. For each 20 hours of being mentored, the practitioner will receive three (3) PDUs, with a maximum of six (6) PDUs credited per renewal period.

(3) Structured mentoring of a colleague to improve his/her skills. Twenty (20) hours of mentoring equals three (3) PDUs, with a maximum of six (6) PDUs credited per renewal period.

(4) Supervising the fieldwork of Level II occupational therapist and occupational therapy assistant students. For each 60 hours of supervision, the practitioner will receive .5 PDU, with a maximum of twelve (12) PDUs credited per renewal period.

(5) Publication of an article in a non-peer reviewed publication. Each article equals five (5) PDUs, with a maximum of ten (10) PDUs credited per renewal period.
(6) Publication of an article in a peer-reviewed professional publication. Each article equals10 PDUs, with a maximum of ten (10) PDUs credited per renewal period .
(7) Publication of chapter(s) in occupational therapy or related professional textbook. Each chapter equals 10 PDUs, with a maximum of ten (10) PDUs credited per renewal period.
(8) Making professional presentations at workshops, seminars and conferences. For each hour presenting, the practitioner will receive two (2) PDUs, with a maximum of six (6) PDUs credited per renewal period.
(9) Attending a meeting of the California Board of Occupational Therapy. Each meeting attended equals two (2) PDUs, with a maximum of six (6) PDUs ~~earned~~ credited per renewal period.
(10) Attending board outreach activities. Each presentation attended equals two (2) PDUs, with a maximum of four (4) PDUs ~~earned~~ credited per renewal period.

(d) Partial credit will not be given for the professional development activities listed in subsection (c) and a maximum of twelve (12) PDUs may be credited for the activities listed in subsection (c).

(e) This section shall not apply to the first license or certificate renewal following issuance of the initial license or certificate.

(f) Of the total number of PDUs required for each renewal period, a minimum of one half of the units must be directly related to the delivery of occupational therapy services, which ~~(1) The delivery of occupational therapy services~~ may include: models, theories or frameworks that relate to client/patient care in preventing or minimizing impairment, enabling function within the person/environment or community context. Other activities may include, but are not limited to, occupation based theory assessment/interview techniques, intervention strategies, and community/environment as related to one's practice.

(g) Applicants who have not been actively engaged in the practice of occupational therapy within the past five years completing continuing competency pursuant to section 2570.14(a) of the Code to qualify for licensure/certification shall submit evidence of meeting the continuing competency requirements by having completed, during the two year period immediately preceding the date the application was received, forty (40) PDUs that meet the requirements of subsection (b). The forty PDUs shall include:

(1) Thirty-seven (37) PDUs directly related to the delivery of occupational therapy services, which may include the scope of practice for occupational therapy practitioners or the occupational therapy practice framework;
~~(2) One (1) PDU related to occupational therapy scope of practice;~~
~~(3) One (1) PDU related to occupational therapy framework;~~
~~(4)~~ (2) ~~One (1)~~ Three (3) PDUs related to ethical standards of practice ~~for an occupational therapist~~ in occupational therapy.

Note: Authority cited: Sections 2570.10 and 2570.20, Business and Professions Code. Reference: Section 2570.10, Business and Professions Code.

AMERICAN OCCUPATIONAL THERAPY ASSOCIATION'S REQUEST THAT THE BOARD RECONSIDER REGULATORY LANGUAGE.

The following are attached for review:

- Letter from AOTA regarding regulatory proposal to amend Section 4123, Limited Permit, and add section 4125, Representation
- Proposed text to amend Section 4123, Limited Permit, and add section 4125, Representation, adopted by Board at July meeting.

AOTA The American Occupational Therapy Association, Inc.

Occupational Therapy: Living Life To Its Fullest

October 25, 2010

VIA EMAIL to cbot@dca.ca.gov
California Board of Occupational Therapy
2005 Evergreen Street, Suite 2050
Sacramento, California 95815

RE: Proposed Regulatory Language – Add CCR Section 4125

Dear Board Members:

On behalf of the American Occupational Therapy Association, Inc. (AOTA), and its 3,200 members in California, I am requesting that the Board revisit the proposed regulatory language that would add Section 4125 to the California Code of Regulations. These comments are being sent as a follow up to AOTA's previous letters dated June 7, 2010 and January 28, 2010. While we understand that the Board approved the regulatory text at its last meeting held July 28-29, 2010, we request that Board clarify the intent of the regulation through an amendment to the regulatory text and through written communication to the licensees. The suggested changes are included below.

If the board wishes to proceed with the addition of Section 4125, we suggest the following amendments to the proposed regulatory text. We believe that the phrase "and currently registered with the National Board for Certification in Occupational Therapy (NBCOT)" will create confusion and may go beyond the underlying statute (2570.18). Therefore we request that the phrase be deleted. Instead we suggest the addition of language within the regulation to state that: (1) "O.T.R." and "Occupational Therapist Registered" are privately held trademarks; and (2) "COTA" and "Certified Occupational Therapy Assistant" are privately held trademarks.

In section 4125(c), we suggest that "by" be changed to "as" to further clarify the language and to be consistent with section 2570.18(d) of the statute.

Proposed Amendments - Section 4125 (As passed by CBOT July 28-29, 2010)

~~Strikethrough Text~~ = Suggested Text to be Deleted
Underlined Text = Suggested Text to be added

§ 4125. Representation

(a)(1) Unless licensed as an occupational therapist by the Board, a person may not use the professional abbreviations "O.T." or "O.T./L.," or refer to themselves as an "Occupational Therapist" or use any other words, letters, symbols, manner, or means with the intent to represent that the person practices or is authorized to practice occupational therapy in California.

(2) Unless licensed as an occupational therapist by the Board, ~~and currently registered with the National Board for Certification in Occupational Therapy (NBCOT),~~ a person may not use the professional abbreviations "O.T.R.," or "O.T.R./L.," or refer to themselves as "Occupational Therapist, Registered," or "Registered Occupational Therapist" or use any other words, letters, symbols, manner, or means, with the intent to represent that the person practices or is authorized to practice occupational therapy in California. **"O.T.R." and "Occupational Therapist Registered" are privately held trademarks.**

(b)(1) Unless licensed as an occupational therapy assistant, a person may not use the professional abbreviations "O.T.A." or "O.T.A./L," or refer to themselves as an "Occupational Therapy Assistant," or use any other words, letters, symbols, manner, or means with the intent to represent that the person practices or is authorized to practice occupational therapy in California.

(2) Unless licensed as an occupational therapy assistant ~~and currently registered with NBCOT,~~ a person may not use the professional abbreviations "C.O.T.A." or "C.O.T.A./L.," or refer to themselves as "Certified Occupational Therapy Assistant," or use any other words, letters, symbols, manner, or means, with the intent to represent that the person practices or is authorized to practice occupational therapy in California. **"C.O.T.A." and "Certified Occupational Therapy Assistant" are privately held trademarks.**

(c) Pursuant to section 2570.18, the unauthorized representation **as** ~~by~~ an occupational therapist or an occupational therapy assistant constitutes an unfair business practice under Section 17200, false and misleading advertising under Section 17500, and a violation of the Ethical Standards of Practice

AOTA continues to believe that the new section goes beyond the intent of the existing law and would inappropriately empower the California Board of Occupational Therapy to enforce the private trademarks held by a private credentialing organization. Our view is that the underlying statute (2570.18) does not support the addition of this provision and that private trademarks should not be protected by the Board through state regulation. We do not believe that the California Board of Occupational Therapy should use its limited financial resources to enforce the private trademarks held by a private credentialing organization.

We are concerned that licensees could be required by the Board to provide proof of current registration with the National Board for Certification in Occupational Therapy (NBCOT) as a condition for licensure renewal or for other reasons at any time. It is our understanding that the Board is **not** seeking authority to enforce NBCOT requirements by adding Section 4125. It is also our understanding that the intent of this language is to prevent someone that is **not licensed** from using the titles and professional abbreviations as allowed by statute. If this is the case, then we believe that: (1) the regulation should be clarified; and (2) the Board must communicate the intent of the regulation to licensees.

We understand the concern about the professional abbreviations. We believe that the Board does have authority to take action against unlicensed individuals that use professional abbreviations with the intent to represent that they practice or are authorized to practice occupational therapy and we do not believe that the Board should enforce a private trademark.

As suggested above, we believe that the Board should clarify the intent of the regulation to licensees. The Board's website includes General Frequently Asked Questions online at: http://www.bot.ca.gov/forms_pubs/gen_faqs.shtml. We believe that the addition of new as well as revised frequently asked questions, in addition to amending the regulatory language, could be used to communicate the intent of the regulation. We suggest the following questions and answers be changed or added:

General Frequently Asked Questions
http://www.bot.ca.gov/forms_pubs/gen_faqs.shtml

Underlined Text = Suggested Text

Proposed Revisions to Existing FAQs on CBOT's website

Q. Do I need to continue to be certified by NBCOT in order to renew our license?
A. No. NBCOT owns the trademarks "OCCUPATIONAL THERAPIST REGISTERED OTR" and "CERTIFIED OCCUPATIONAL THERAPY ASSISTANT COTA." If you wish to use the trademarks, contact NBCOT.

Q. Now that I'm licensed, what letters do I put after my signature?
A. OTPA section 2570.18 lists all the abbreviations you may use once you are licensed. NBCOT owns the trademarks "OCCUPATIONAL THERAPIST REGISTERED OTR" and "CERTIFIED OCCUPATIONAL THERAPY ASSISTANT COTA." If you wish to use the trademarks, contact NBCOT.

Proposed FAQs

Q. If I choose to use OTR or COTA after my signature, will CBOT require me to submit proof of current certification with NBCOT.
A. No. Section 4125 of Title 16, California Code of Regulations (CCR) requires that occupational therapists that wish to use OTR and occupational therapy assistants who wish to use COTA must be licensed.

Q. I am not licensed but I am currently certified with NBCOT. May I use OTR or COTA after my signature?
A. No. Section 4125 of Title 16, California Code of Regulations (CCR) provides that only licensed occupational therapists may use OTR and only licensed occupational therapy assistants may use COTA.

Thank you for the opportunity to share our request with the Board regarding the proposed regulatory language to add Section 4125 to the California Code of Regulations. We would be happy to discuss our request further with the Board. If that would be helpful, please contact AOTA's Director of State Affairs Chuck Willmarth at 301/652-6611 ext 2019 or via email at cwillmarth@aota.org.

Sincerely,

Christina A. Metzler
Chief Public Affairs Officer
American Occupational Therapy Association

cc: Shawn Phipps, MS, OTR/L, President, Occupational Therapy Association of California

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

PROPOSED AMENDED REGULATORY LANGUAGE
Title 16, Division 39, California Code of Regulations

Proposed amendments are shown by strikeout for deleted text and underline for new text. Proposed amendments for modified text are shown by double strikeout for deleted text and double underline for new text.

Article 3. License, Certificate, Limited Permit, Inactive Status, and Representation

§ 4123. Limited Permit

(a) To qualify for a limited permit, a person must have applied to the National Board for Certification in Occupational Therapy (NBCOT) to take the licensing examination within four (4) months of completing the education and fieldwork requirements for licensure or certification and request NBCOT provide their examination score report be forwarded to the Board.
(1) Upon receipt from NBCOT, the applicant must forward to the Board a copy of the Authorization to Test (ATT) letter.
(2) The applicant must provide documentation or other evidence to the Board, to prove that the applicant requested their examination score be sent from NBCOT to the Board, before a limited permit may be issued.
~~(2)~~ (3) A limited permit shall only be valid for three (3) months from the date of issuance by the Board, upon receipt of a failing result, or two (2) weeks following the expiration of the applicants' eligibility to test period, whichever occurs first.
~~(3)~~ (4) The limited permit holder must immediately notify the Board of the results of the examination.
~~(4)~~ (5) The limited permit holder must provide the Board the name, address and telephone number of their employer and identify the name and license number of their supervising occupational therapist (OT). Any change to employer or supervising OT must be provided to the Board, in writing, within 10 days of the change.
(b) The limited permit will be cancelled, and the fee forfeited, upon notification to the Board or the limited permit holder by the test administrator that the holder failed to pass the first examination.

Note: Authority cited: Section 2570.20, Business and Professions Code.
Reference: Sections 2570.5, 2570.6, 2570.7, 2570.9, 2570.16, and 2570.26, Business and Professions Code, and Sections 4100, 4102, 4110, 4111, 4112, 4114, 4120, and 4130, California Code of Regulations.

§ 4125. Representation

(a)(1) Unless ~~holding a~~ licensed ~~to practice~~ as an occupational therapist by the Board, a person may not use the professional abbreviations "O.T." or "O.T./L.," or refer to themselves as an "Occupational Therapist" or use any other words, letters, symbols, manner, or means with the intent to represent that the person practices or is authorized to practice occupational therapy in California.

(2) Unless ~~holding a~~ licensed ~~to practice~~ as an occupational therapist by the Board, and currently ~~in good standing~~ registered with the National Board for Certification in Occupational Therapy (NBCOT) , a person may not use the professional abbreviations "O.T.R.," or "O.T.R./L.," or refer to themselves as "Occupational Therapist, Registered," or "Registered Occupational Therapist" or use any other words, letters, symbols, manner, or means, with the intent to represent that the person practices or is authorized to practice occupational therapy in California ~~and currently registered with NBCOT~~.

(b)(1) Unless ~~holding a~~ licensed ~~to practice~~ as an occupational therapy assistant, a person may not use the professional abbreviations "O.T.A." or "O.T.A./L," or refer to themselves as an "Occupational Therapy Assistant," or use any other words, letters, symbols, manner, or means with the intent to represent that the person practices or is authorized to practice occupational therapy in California.

(2) Unless ~~holding a~~ licensed ~~to practice~~ as an occupational therapy assistant and currently ~~in good standing~~ registered with NBCOT, a person may not use the professional abbreviations "C.O.T.A." or "C.O.T.A./L.," or refer to themselves as "Certified Occupational Therapy Assistant," or use any other words, letters, symbols, manner, or means, with the intent to represent that the person practices or is authorized to practice occupational therapy in California ~~and currently registered with NBCOT~~.

(c) Pursuant to section 2570.18, the unauthorized representation by an occupational therapist or an occupational therapy assistant constitutes an unfair business practice under Section 17200, false and misleading advertising under Section 17500, and a violation of the Ethical Standards of Practice.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 2570.3, 2570.18, 17200, and 17500, Business and Professions Code.

DISCUSSION AND CONSIDERATION OF ADDING TITLE 16, DIVISION 39, CCR SECTION 4171, NOTICE CONSUMERS.

The following are attached for review:

- Proposed regulatory language to add section CCR 4141, Notice to Consumers.
- Assembly Bill 583.

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

PROPOSED AMENDED REGULATORY LANGUAGE
Title 16, Division 39, California Code of Regulations

Proposed amendments are shown by strikeout for deleted text and underline for new text.

Add section 4171 to Article 8 of Division 39 of Title 16 of the California Code of Regulations to read as follows:

§ 4171. Notice to Consumers.
(a) An occupational therapy practitioner shall provide notice to each patient or client of his or her name, license type, and that his or her license is issued and regulated by the board.
(b) A licensee may disclose his or her name and license type by wearing a name tag in at least 18-point type, or by prominently posting a copy of his or her license in the practice area or office where he or she works.
(c) A licensee may disclose that his or her license is issued and regulated by the board by any of the following methods:
(1) Including on a name tag, "CA Board of Occupational Therapy."
(2) Verbally at the time that services are requested, and each time services are rendered.
(3) On a business card identifying the person as a licensee of the California Board of Occupational Therapy that is provided to the patient or client at the time of initial evaluation.
(4) Written notice in a statement that includes the following information, either given to a patient or client in connection with services provided, or posted in an area visible to patients or clients on the premises where the licensee provides occupational therapy services:

NOTICE TO CONSUMERS

Occupational therapists and occupational therapy assistants
are licensed and regulated by the
California Board of Occupational Therapy
(916) 263-2294
www.bot.ca.gov

(A) If given to a patient or client, the notice shall be in at least 14-point type in Arial font, provided at the time of evaluation.
(B) If posted where services are provided, the notice shall be in at least 48-point type in Arial font.

Authority cited: Section 2570.20, Business and Professions Code; Reference: Sections 138 and 680, Business and Professions Code.

BUSINESS AND PROFESSIONS CODE

138. Every board in the department, as defined in Section 22, shall initiate the process of adopting regulations on or before June 30, 1999, to require its licentiates, as defined in Section 23.8, to provide notice to their clients or customers that the practitioner is licensed by this state. A board shall be exempt from the requirement to adopt regulations pursuant to this section if the board has in place, in statute or regulation, a requirement that provides for
consumer notice of a practitioner's status as a licensee of this state.

680. (a) Except as otherwise provided in this section, a health care practitioner shall disclose, while working, his or her name and practitioner's license status, as granted by this state, on a name tag in at least 18-point type. A health care practitioner in a practice or an office, whose license is prominently displayed, may opt to not wear a name tag. If a health care practitioner or a licensed clinical social worker is working in a psychiatric setting or in a setting that is not licensed by the state, the employing entity or agency shall have the discretion to make an exception from the name tag requirement for individual safety or therapeutic concerns. In the interest of public safety and consumer awareness, it shall be unlawful for any person to use the title "nurse" in reference to himself or herself and in any capacity, except for an individual who is a registered nurse or a licensed vocational nurse, or as otherwise provided in Section 2800. Nothing in this section shall prohibit a certified nurse assistant from using his or her
title.

(b) Facilities licensed by the State Department of Social Services, the State Department of Mental Health, or the State Department of Health Services shall develop and implement policies to ensure that health care practitioners providing care in those facilities are in compliance with subdivision (a). The State Department of Social Services, the State Department of Mental Health, and the State Department of Health Services shall verify through periodic inspections that the policies required pursuant to subdivision (a) have been developed and implemented by the respective licensed facilities.

(c) For purposes of this article, "health care practitioner" means any person who engages in acts that are the subject of licensure or regulation under this division or under any initiative act referred to in this division.

Assembly Bill No. 583

CHAPTER 436

An act to add Section 680.5 to the Business and Professions Code, relating to health care practitioners.

[Approved by Governor September 29, 2010. Filed with Secretary of State September 29, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 583, Hayashi. Health care practitioners: disclosure of education.

Existing law requires a health care practitioner to disclose, while working, his or her name and practitioner's license status on a name tag in at least 18-point type or to prominently display his or her license in his or her office, except as specified.

This bill would require each of those health care practitioners to disclose the type of license and, except as specified, the highest level of academic degree he or she holds either in a prominent display in his or her office or in writing, in a specified format given to a patient on his or her initial office visit. The bill would require a physician and surgeon, and an osteopathic physician and surgeon, who is certified in a medical specialty, as specified, to also disclose, in either of those manners the name of the certifying board or association. The bill would exempt specified health care practitioners, including, without limitation, persons working in certain licensed laboratories and health care facilities, as specified, from these requirements.

The people of the State of California do enact as follows:

SECTION 1. Section 680.5 is added to the Business and Professions Code, to read:

680.5. (a) (1) A health care practitioner licensed under Division 2 (commencing with Section 500) shall communicate to a patient his or her name, state-granted practitioner license type, and highest level of academic degree, by one or both of the following methods:

(A) In writing at the patient's initial office visit.

(B) In a prominent display in an area visible to patients in his or her office.

(2) An individual licensed under Chapter 6 (commencing with Section 2700) or Chapter 9 (commencing with Section 4000) is not required to disclose the highest level of academic degree he or she holds.

(b) A person licensed under Chapter 5 (commencing with Section 2000) or under the Osteopathic Act, who is certified by (1) an American Board of Medical Specialties member board, (2) a board or association with

requirements equivalent to a board described in paragraph (1) approved by that person's medical licensing authority, or (3) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in the person's specialty or subspecialty, shall disclose the name of the board or association by either method described in subdivision (a).

(c) A health care practitioner who chooses to disclose the information required by subdivisions (a) and (b) pursuant to subparagraph (A) of paragraph (1) of subdivision (a) shall present that information in at least 24-point type in the following format:

HEALTH CARE PRACTITIONER INFORMATION

1. Name and license.....
2. Highest level of academic degree.....
3. Board certification (ABMS/MBC).....

(d) This section shall not apply to the following health care practitioners:

(1) A person who provides professional medical services to enrollees of a health care service plan that exclusively contracts with a single medical group in a specific geographic area to provide or arrange for professional medical services for the enrollees of the plan.

(2) A person who works in a facility licensed under Section 1250 of the Health and Safety Code or in a clinical laboratory licensed under Section 1265.

(3) A person licensed under Chapter 3 (commencing with Section 1200), Chapter 7.5 (commencing with Section 3300), Chapter 8.3 (commencing with Section 3700), Chapter 11 (commencing with Section 4800), Chapter 13 (commencing with Section 4980), or Chapter 14 (commencing with Section 4990.1).

(e) A health care practitioner, who provides information regarding health care services on an Internet Web site that is directly controlled or administered by that health care practitioner or his or her office personnel, shall prominently display on that Internet Web site the information required by this section.

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REGULATIONS UPDATE.

The Regulations Update Report is attached for review.

REGULATION UPDATE REPORT

Rulemaking File Subject	Sec.	Status	Date to OAL for publishing	Close of public comment period	Date Pkg Sent to DCA	Date Pkg Rtn'd from DCA	Final Pkg Due to OAL	Actual Submit Date To OAL	Date language goes into effect
Advanced Practices	4150, et al	Draft language approved at October 2009 Board meeting. Hearing held February 11, 2010. 15-day Notice issued May 24, 2010. Adopted July Board meeting.	12/15/09	02/08/10 06/07/10	10/25/10		12/24/10		
Limited Permit and Representation	4123, 4125	Draft language approved at December 2009 Board meeting. Hearing held February 11, 2010. 15-day Notice issued May 24, 2010. Modified text adopted at July Board meeting.	12/15/09	02/08/10 06/07/10			12/24/10		
Citations	4141, 4144, 4145	Language published June 11, 2010. Hearing held July 28, 2010. Board approved 15-day Notice; to be issued November 10, 2010.	06/01/10	07/26/10			05/031/11		
Disciplinary Guidelines & Required Actions Against Registered Sex Offenders	4147 4148	Language published June 11, 2010. Hearing held July 28, 2010. Board approved 15-day Notice; issued November 1, 2010.	06/01/10	07/26/10			05/31/11		
Ethical Standards of Practice	4170	Draft language approved at July Board meeting; to be published.							
Notification to Consumers	4171	Draft presented at July 2010 Board meeting; to be brought back to November 2010 meeting.							
Definitions and Delegation of Certain of Functions, Other	4100, 4101, 4144, 4145, 4146, 4147.5, 4148	Draft language approved at July Board meeting; to be published.							

REGULATION UPDATE REPORT

Definitions and Supervision Plan for an Occupational Therapist	4180, 4187	Draft language approved at July Board meeting; to be published.							
Retired Status	4123	(existing 4123 to be re-numbered 4126) Draft language approved at July Board meeting; to be published.							
Continuing Competency	4161	Referred to Practice Committee; recommendation to be presented at November Board meeting.							

AGENDA ITEM 10

LEGISLATION UPDATE.

Assembly Bill No. 2385

CHAPTER 679

An act to add and repeal Article 3.7 (commencing with Section 78265) of Chapter 2 of Part 48 of Division 7 of Title 3 of the Education Code, relating to public postsecondary education.

[Approved by Governor September 30, 2010. Filed with Secretary of State September 30, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2385, John A. Pérez. Pilot Program for Innovative Nursing and Allied Health Care Profession Education at the California Community Colleges.

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts, each of which is administered by a governing board, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts.

The bill would establish the Pilot Program for Innovative Nursing and Allied Health Care Profession Education at the California Community Colleges under the administration of the Office of the Chancellor of the California Community Colleges to facilitate the graduation of community college nursing and allied health students by piloting innovative models to expand the state's capacity to prepare a qualified health care workforce. The bill would require the chancellor's office to establish the pilot program at up to 5 campuses throughout the state according to specified requirements.

The bill would express legislative intent that the pilot program be funded with a combination of state apportionment funding, federal grants, employer-based partnerships, and private philanthropic resources.

The bill would require the chancellor's office to collect appropriate data for the purpose of evaluating the effectiveness of the pilot program. The bill would require the chancellor's office to analyze this data, and contract with an external evaluator to conduct an independent evaluation, with findings and recommendations with respect to the pilot program to be reported to the Legislature on or before January 1, 2017.

The bill would provide that its provisions would be implemented in any fiscal year only to the extent that the chancellor's office determines that sufficient moneys are available to administer the program.

The bill would provide that the pilot program would become inoperative on July 1, 2017, and as of January 1, 2018, would be repealed.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Allied health care occupations are expected to grow dramatically in the next decade, and California labor market data show that, by 2017, allied health care occupations are projected to account for more than 1,100,000 jobs around the state, an increase of close to 130,000 jobs, or 13 percent, from 2007.

(b) Health care industry experts project a growing demand for care due to burgeoning population growth and an aging population. Retirements by health care employees will place additional strain on a system struggling to train the number of qualified individuals necessary to meet the demands of the health care industry.

(c) Although one of the most publicized shortage areas has been registered nurses, a wide variety of allied health care occupations also face worker shortages.

(d) The California Community Colleges system currently trains approximately 70 percent of registered nurses statewide, offering educational programs in a variety of allied health care professions.

(e) Allied health care profession education programs are among the most costly education programs offered by community colleges and colleges have been forced by fiscal constraints to limit their enrollment capacity.

(f) Currently, most associate degree nursing and allied health care profession courses are offered over four semesters or two school years, and require the completion of 70 units in program courses, assuming that the student has met all of the prerequisite requirements and is ready to start the program immediately.

(g) The goal of this bill is to pilot innovative program delivery and curriculum models to enable more students to earn their degrees and expand the state's capacity to train a qualified health care workforce without compromising the integrity of program and licensure requirements.

(h) Successful program models would be a center of innovation and a foundation for the newest educational technology and curricular ideas.

(i) The enactment of the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5) and the federal Patient Protection and Affordable Care Act (Public Law 111-148) provided opportunities for California to address critical health care workforce shortages.

SEC. 2. Article 3.7 (commencing with Section 78265) is added to Chapter 2 of Part 48 of Division 7 of Title 3 of the Education Code, to read:

Article 3.7. Pilot Program for Innovative Nursing and Allied Health Care Profession Education at the California Community Colleges

78265. (a) The Pilot Program for Innovative Nursing and Allied Health Care Profession Education at the California Community Colleges is hereby established under the administration of the Office of the Chancellor of the

California Community Colleges. The goal of the pilot program shall be to facilitate the graduation of community college nursing and allied health students by piloting innovative models to expand the state's capacity to prepare a qualified health care workforce.

(b) The chancellor's office shall establish the pilot program at up to five campuses throughout the state.

(c) The pilot programs shall test innovative program delivery models to expand the capacity of community colleges to offer health care training to students in occupations for which there is a substantial labor market demand. Pilot programs shall test health care education models that use tools such as technology and flexible scheduling, and shall coordinate student services and financial assistance to the maximum extent possible in order to facilitate a student's successful program completion.

(d) The chancellor's office shall pursue a variety of funding sources to help support the development and delivery of the pilot programs and create high-quality curriculum delivery models to be used in health care certificate and degree programs. These funding sources shall include, but not be limited to, federal grants, philanthropic funds, employer monetary and in-kind contributions, and state and federal workforce funds.

(e) The chancellor's office, contingent upon obtaining resources to support the development and delivery of the pilot programs, shall develop a request for application for community colleges to participate in the pilot program commencing on or after the 2011–12 academic year. The chancellor's office shall develop the request for application in collaboration with representatives from education, labor, health care employers, licensing and credentialing entities, regional occupational centers and programs, hospitals and nursing organizations, and other appropriate entities. The chancellor's office shall specify the amount of baseline funding provided for each pilot program based upon funding sources developed pursuant to subdivision (d). Pilot programs shall be in high-demand allied health care or nursing programs.

(f) The chancellor's office shall select pilot programs that do all of the following:

(1) Provide students with an industry-recognized certificate or degree in health care fields for which there is a demonstrated shortage of workers in the labor market and documented support from employers.

(2) Demonstrate a capacity to train specified health care workers, or the ability to sustain or expand current innovative health care education and training programs, or both. Limited capacity may be demonstrated by waiting lists to enter existing community college allied health care or nursing programs.

(3) Provide evidence of sufficient clinical sites for offering the pilot program.

(4) Include high-quality curriculum delivery models as part of the pilot program. All courses shall meet the curriculum standards approved by the appropriate state licensing entities that oversee each health occupation, and shall not in any way shorten the clinical units or hours as determined by the appropriate state licensing entities that oversee each health occupation.

Curriculum already approved by the appropriate state licensing entities that oversee each health occupation shall be deemed to satisfy the requirements of this paragraph.

(5) Provide flexibility in the delivery of coursework, including, but not limited to, intensive weekend, evening, and summer courses to enable students to efficiently complete program requirements.

(6) Offer coordinated supportive services to students, including, but not limited to, tutoring and financial advising.

(7) Demonstrate clear, nonduplicative, and articulated education pathways with local secondary and postsecondary education entities.

(8) Identify resources to support the pilot program, including, but not limited to, funding provided by the chancellor's office obtained from outside sources for the support of the pilot program, local workforce investment funding, and locally provided employer or philanthropic resources.

(g) The chancellor's office shall select, to the extent possible, pilot programs that are geographically distributed throughout the state.

(h) In selecting the pilot programs, the chancellor's office may give consideration to existing innovative programs currently underway within the community college system that require additional resources to move to scale.

78265.1. As used in this article the following definitions apply:

(a) "Chancellor's office" means the Office of the Chancellor of the California Community Colleges.

(b) "Pilot program" means the Pilot Program for Innovative Nursing and Allied Health Care Profession Education at the California Community Colleges established by Section 78265.

78265.2. (a) It is the intent of the Legislature that the pilot program attract and admit a diverse and talented pool of students likely to succeed in an innovative program model setting.

(b) To effectuate the legislative intent expressed in subdivision (a), both of the following shall occur:

(1) In selecting students for admission to the pilot program, participating campuses may use a diagnostic assessment tool identified by the chancellor's office pursuant to Section 78261. The use of a diagnostic assessment tool by a participating campus shall be part of a comprehensive program-based support system for students who need skills enhancement prior to entering the program. When the number of applicants for the pilot program exceeds the capacity to admit students, a participating campus may do either of the following when that process is deemed feasible:

(A) Administer the multicriteria screening process established under Section 78261.5.

(B) Give preference to students who have participated in a health science pathway program, including, but not limited to, a California Partnership Health Science and Medical Technology Academy, or a Career Advancement Academy.

(2) Participating campuses shall provide support services to help students complete the pilot program. These support services shall include, but not

necessarily be limited to, the presence of student success advisers, tutors, mentors, appropriate financial assistance, and aid in placing students who complete the program in appropriate internships.

78265.3. It is the intent of the Legislature that the pilot program be funded with a combination of state apportionment funding, employer-based partnerships, federal grants, and private philanthropic resources.

78265.4. The chancellor's office shall collect appropriate data for the purpose of evaluating the effectiveness of the pilot program. The chancellor's office shall analyze this data, and contract with an external evaluator to conduct an independent evaluation, with findings and recommendations with respect to the pilot program to be reported to the Legislature on or before January 1, 2017.

78265.5. This article shall be implemented in any fiscal year only to the extent that the chancellor's office determines that sufficient moneys are available to administer the program.

78265.6. This article shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

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EXECUTIVE OFFICER'S REPORT.

The following are attached for review:

A. Revenue and Expenditure Information
B. No attachment.
C. Other informational items:
   - Memo from DCA Legal Office re: Board Meeting Protocols
   - AOTA's State Issue Update (August 6, 2010, September 13, 2010, and October 26, 2010)

DEPARTMENT OF C NSUMER AFFAIRS

BUDGET REPORT

CA BD OF OCCUPATIONAL THERAPY

AS OF 9/30/2010

FM 03

RUN DATE 10/13/2010

PAGE 1

CA BD OF OCCUPATIONAL THERAPY

	DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
PERSONAL SERVICES								
SALARIES AND WAGES								
003 00	CIVIL SERVICE-PERM	0	20,310	70,938	0	70,938	(70,938)	
033 04	TEMP HELP (907)	0	10,793	18,146	0	18,146	(18,146)	
063 00	STATUTORY-EXEMPT	0	5,239	16,098	0	16,098	(16,098)	
TOTAL SALARIES AND WAGES		**0**	**36,342**	**105,182**	**0**	**105,182**	**(105,182)**	**0.00%**
STAFF BENEFITS								
103 00	OASDI	0	2,119	6,202	0	6,202	(6,202)	
104 00	DENTAL INSURANCE	0	286	834	0	834	(834)	
105 00	HEALTH/WELFARE INS	0	3,251	9,510	0	9,510	(9,510)	
106 01	RETIREMENT	0	5,517	16,008	0	16,008	(16,008)	
134 00	OTHER-STAFF BENEFITS	0	2,077	5,293	0	5,293	(5,293)	
135 00	LIFE INSURANCE	0	13	29	0	29	(29)	
136 00	VISION CARE	0	74	230	0	230	(230)	
137 00	MEDICARE TAXATION	0	517	1,500	0	1,500	(1,500)	
TOTAL STAFF BENEFITS		**0**	**13,854**	**39,607**	**0**	**39,607**	**(39,607)**	**0.00%**
TOTAL PERSONAL SERVICES		**0**	**50,196**	**144,789**	**0**	**144,789**	**(144,789)**	**0.00%**
OPERATING EXPENSES & EQUIPMENT								
PRINTING								
242 03	ALLOCATED COPY COSTS	0	1,675	1,675	0	1,675	(1,675)	
244 00	OFFICE COPIER EXP	0	0	0	3,414	3,414	(3,414)	
TOTAL PRINTING		**0**	**1,675**	**1,675**	**3,414**	**5,089**	**(5,089)**	**0.00%**
POSTAGE								
263 05	ALLOCATED POSTAGE-DC	0	1,598	1,598	0	1,598	(1,598)	
263 06	ALLOCATED POSTAGE-ED	0	1,445	1,445	0	1,445	(1,445)	
TOTAL POSTAGE		**0**	**3,042**	**3,042**	**0**	**3,042**	**(3,042)**	**0.00%**
FACILITIES OPERATIONS								
343 00	RENT-BLDG/GRND(NON S	0	0	0	52,876	52,876	(52,876)	
TOTAL FACILITIES OPERATIONS		**0**	**0**	**0**	**52,876**	**52,876**	**(52,876)**	**0.00%**
CONSOLIDATED DATA CENTERS								
428 00	CONSOLIDATED DATA CE	0	0	0	1,000	1,000	(1,000)	
TOTAL CONSOLIDATED DATA CENTERS		**0**	**0**	**0**	**1,000**	**1,000**	**(1,000)**	**0.00%**

DEPARTMENT OF CONSUMER AFFAIRS

CA BD OF OCCUPATIONAL THERAPY

BUDGET REPORT

AS OF 9/30/2010

FM 03

CA BD OF OCCUPATIONAL THERAPY

DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
TOTAL OPERATING EXPENSES & EQUIPMEN	0	4,717	4,717	57,290	62,008	(62,008)	0.00%
CA BD OF OCCUPATIONAL THERAPY	0	54,913	149,506	57,290	206,797	(206,797)	0.00%
	0	54,913	149,506	57,290	206,797	(206,797)	0.00%

DEPT OF CONSUMER AFFAIRS - REGULATORY BOARDS
RECEIPTS BY ORGANIZATION AND SOURCE
AS OF 09/30/10

ENY: 10 FFY: 10
SECTION: 11 CA BD OF OCCUPATIONAL THERAPY
SUB-SECTION: 00
UNIT: 00
SUB-UNIT: 00
SUB-SUB-UNIT: 00
INDEX: 1475 CA BD OF OCCUPATIONAL THERAPY

PROGRAM
PG EL CMP TSK PCA DESCRIPTION

REF	SOURCE	ASRC	DESCRIPTION	PLANNED RECEIPTS	ACTUAL RECEIPTS CURRENT MONTH	ACTUAL RECEIPTS YEAR-TO-DATE	BALANCE
67 00 000 000 73017			REIMB - CA BD OF OCCUPATIONAL THERAPY				
001	991937	01	FINGERPRINT REPORTS	0.00	969.00	2,754.00	2,754.00-
001	991937	02	EXTERNAL/PRIVATE/GRANT	0.00	1,195.00	3,095.00	3,095.00-
*TOTAL SOURCE 991937				0.00	2,164.00	5,849.00	5,849.00-
*TOTAL PROG 67				0.00	2,164.00	5,849.00	5,849.00-
*TOTAL REFERENCE 001				0.00	2,164.00	5,849.00	5,849.00-
67 00 000 000 83017			REVENUE CA BD OF OCCUPATIONAL THERAPY				
980	125600	CU	OTA DUP LIC FEE-$15.00	0.00	210.00	405.00	405.00-
980	125600	CV	OTA DUP CERT FEES-$15.00	0.00	15.00	90.00	90.00-
980	125600	18	CITATION & FINE FEE COLLECTED-VAR	0.00	3,215.00	5,373.00	5,373.00-
*TOTAL SOURCE 125600				0.00	3,440.00	5,868.00	5,868.00-
980	125700	OC	OT INITIAL LIC FEE-$VAR	0.00	5,703.00	18,999.00	18,999.00-
980	125700	OD	OTA INITIAL CERT FEE-$VAR	0.00	2,068.00	4,833.00	4,833.00-
980	125700	OE	OT LIMITED PERMIT-$75.00	0.00	1,050.00	1,725.00	1,725.00-
980	125700	OJ	OTA LIMITED PERMIT $75.00	0.00	75.00	150.00	150.00-
980	125700	90	OVER/SHORT FEES	0.00	99.00	194.00	194.00-
980	125700	91	SUSPENDED REVENUE	0.00	150.00	600.00	600.00-
*TOTAL SOURCE 125700				0.00	9,145.00	26,501.00	26,501.00-
980	125800	BP	OT INACTIVE RENEWAL LIC FEE-$25.0	0.00	900.00	2,350.00	2,350.00-
980	125800	BQ	OTA INACTIVE RENEWAL CERT FEE-$25	0.00	100.00	375.00	375.00-
980	125800	C1	AUTOMATED REVENUE REFUND CLAIM	0.00	568.00	1,480.00	1,480.00-
980	125800	2S	OT-1 YEAR RENEWAL FEE(1/2 BIENN R	0.00	0.00	225.00	225.00-
980	125800	2W	BIENNIAL RENEWAL-OT $150	0.00	106,925.00	263,525.00	263,525.00-
980	125800	2X	BIENNIAL RENEWAL-OTA $150	0.00	17,100.00	40,200.00	40,200.00-
*TOTAL SOURCE 125800				0.00	125,593.00	308,155.00	308,155.00-

DEPT OF CONSUMER AFFAIRS - REGULATORY BOARDS
RECEIPTS BY ORGANIZATION AND SOURCE
AS OF 09/30/10

ENY: 10 FFY: 10
SECTION: 11 CA BD OF OCCUPATIONAL THERAPY
SUB-SECTION: 00
UNIT: 00
SUB-UNIT: 00
SUB-SUB-UNIT: 00
INDEX: 1475 CA BD OF OCCUPATIONAL THERAPY

PROGRAM
PG EL CMP TSK PCA DESCRIPTION

REF	SOURCE	ASRC	DESCRIPTION	PLANNED RECEIPTS	ACTUAL RECEIPTS CURRENT MONTH	ACTUAL RECEIPTS YEAR-TO-DATE	BALANCE
980	125900	TM	DELINQ BIENNIAL-OT $75	0.00	1,200.00	3,000.00	3,000.00-
980	125900	TN	DELINQ BIENNIAL-OTA $75	0.00	300.00	675.00	675.00-
*TOTAL SOURCE 125900				0.00	1,500.00	3,675.00	3,675.00-
980	142500	90	MISC. SER TO PUBLIC - GENERAL	0.00	615.00	2,115.00	2,115.00-
*TOTAL SOURCE 142500				0.00	615.00	2,115.00	2,115.00-
980	161000	02	REVENUE CANCELLED WARRANTS	0.00	75.00	85.00	85.00-
*TOTAL SOURCE 161000				0.00	75.00	85.00	85.00-
980	161400	91	DISHONORED CHECK FEE-VAR	0.00	50.00	75.00	75.00-
*TOTAL SOURCE 161400				0.00	50.00	75.00	75.00-
980	164300	99	PENALTY ASSESSMENTS	0.00	546.00	2,326.63	2,326.63-
*TOTAL SOURCE 164300				0.00	546.00	2,326.63	2,326.63-
*TOTAL PROG 67				0.00	140,964.00	348,800.63	348,800.63-
*TOTAL REFERENCE 980				0.00	140,964.00	348,800.63	348,800.63-
*TOTAL INDEX 1475				0.00	143,128.00	354,649.63	354,649.63-
*TOTAL SEC 11				0.00	143,128.00	354,649.63	354,649.63-

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
DIVISION OF LEGAL AFFAIRS
1625 N. Market Blvd., Suite S 309, Sacramento, CA 95834
P (916) 574-8220 F (916) 574-8623 |

MEMORANDUM

DATE: October 7, 2010

TO: Executive Officers
Board Presidents/Chairs

FROM: DOREATHEA JOHNSON
Deputy Director
Legal Affairs

SUBJECT: Board Meeting Protocols

Three Duties for Board Meetings

1. Give adequate notice of meetings that will be held and agenda items.
2. Conduct meetings in open session.
3. Provide the public an opportunity to comment.

First Duty
Adequate Notice of Meetings and Agenda Items

1. Timely – Law requires 10 days notice to those on a mailing list and posting notice and agenda on your website.
2. Specific Notice – Detailed, itemized agenda, identifying all items of business to be conducted at the meeting.
   - Items not on agenda cannot be discussed nor can they be acted on.
   - Can't discuss items under the heading of "New or Old Business" unless they are specifically identified.
   - Test for Specific Notice --Is an item specific enough for a member of the public to reasonably ascertain the nature of the business to occur at the meeting?

Second Duty
Conduct Meetings

Open Session

General rule: Meetings must be conducted in Open Session and all discussion and actions must take place in the public, unless specifically authorized by law to go into closed session, with regard to that item of business.

Vote in public – Votes must be publically taken. Secret votes or votes by proxy are not permitted.

Closed Session

Business statutorily authorized to be conducted in closed session:

- Disciplinary matters;
- Preparing, approving or grading examinations;
- Pending litigation;
- Matters affecting personal privacy;
- Executive officer appointment, employment or dismissal.

Once in closed session, you can only discuss those matters that were identified as closed session on your agenda.

Third Duty
Public Comment At The Meeting

General Rule

Must allow public comment on each open session agenda item.

Suggested script to be read at the beginning of the meeting:

The Board Chair will allow public comment on agenda items, as those items are taken up by the Board, during the meeting. Under the Open Meetings Act, the Board may not take any action on items raised by public comment that are not on the Agenda, other than to decide whether to schedule that item for a future meeting.

If any person desires to address the Board, it will be appreciated if he or she will stand or come forward and give his or her name, and if he or she represents an organization, the name of such organization, so that we will have a record of all those who appear. Please note that a person wishing to provide comment is not

required to identify him or herself when making public comment, but it is appreciated.

In order to allow the Board sufficient time to conduct its scheduled business, public comment will be limited to ___ minutes. Please make your comments focused and relevant to the duties of the Board. It is not necessary to repeat statements or views of a previous speaker, it is sufficient to state that you agree. Written statements should be summarized and submitted to the Board. They should not be read.

If as chairperson/president, I forget to ask for public comment on an agenda item, it is not because I intend to limit comment but just because I forgot. So in that situation, please raise your hand and I will recognize you.

Suggested script to be used for each item on the agenda:

1. Call the Agenda Item
2. Committee Presents the agenda item
3. Ask for a motion
4. Ask for a second, unless the motion is made by the committee (second is not needed)
5. Ask for board discussion.
6. Ask if there is public comment. [You may reverse the order of these 2.]
7. Ask if there is further board discussion
8. Repeat the Motion
9. Take the vote

Suggested script for public comment on items not on the agenda:

The board values input from the public as part of its consumer protection mission. It invites and welcomes public comment during this section of the agenda. However, board members cannot engage in dialogue with those who testify during this section of the agenda due to constraints imposed on the board and its members by law. The law prohibits the board from substantively discussing or voting on any matter brought up during public comment. A member of the public who would like the board to discuss a general topic not related to a specific case involving one of its licensees can ask the board to consider placing the issue on the board's agenda for a future meeting.

If you have an application or disciplinary charges pending before the board, we ask that you not discuss the details of your case or pending complaint since the board members will be the "judges" and by law are not permitted to receive evidence or information that is not part of the administrative record in the case.

Disruptive persons:

The public has the right to express its disapproval, and may sometimes make emotional presentations. It is the board's duty and obligation to allow that public comment. Since the purpose of the meeting is for the agency to conduct its business, commenters shouldn't be permitted to thwart that purpose and may be

removed from the meeting if disruptive behavior continues after a request that it stop.

Suggested script to use when there is a disruptive person:

Under the Open Meetings Act (Government Code Section 11126.5), if you continue in this manner, I will ask you to leave the meeting and if you do not leave the meeting, you will be removed. Accordingly, I am asking you to discontinue your disruptive conduct so that all participants can be heard in an orderly fashion.

Miscellaneous

Wording of Motions

- Motions must be clearly worded.
- The test: Could a reasonable person reading the motion understand what the board meant to accomplish?
- Chair should restate the motion before the discussion and just before the vote is taken

Improper Disclosure of Information

- Improper for information received during closed session to be publicly disclosed without authorization of the body as a whole.

Role of the Attorney

The attorney's role during board meetings is to advise the agency of its obligations and authority under the law when it appears that the agency may be deviating from it, e.g. Open Meetings Act, quorum requirements, practice acts, regulations. In some cases, it may be necessary for the attorney to assist the agency in identifying an issue, framing a motion that accurately reflects the agency's deliberations and intent or seeking clarification from a speaker or board member.

When a problem is identified, the attorney is expected to assist the board in developing a lawful alternative method of accomplishing the board's goal.

It is not the attorney's responsibility or role to chair the meetings or direct the discussion. And the attorney should refrain from doing so even if requested to take on that role.

AOTA State Issue Update
August 16, 2010

This update summarizes the state legislative and regulatory activity from July 30 – August 15 that could impact the profession. Additional information about these proposals is available upon request. This report is distributed to state presidents and state OT association legislative/government affairs chairs.

Legislation:

California: CA AB 1647 would make it unlawful for any person to hold themselves out as a certified athletic trainer unless they have met specified educational requirements and have been certified by a specified entity and has either graduated from a college or university, after completing an accredited athletic training education program or completed requirements for certification by that specified entity. In June, AOTA and OTAC worked closely together to send a letter to the sponsor, Assemblymember Hayashi, regarding previously introduced language that allowed physicians and surgeons to develop "protocols" that define "athletic training activities" without any parameters in statute. AOTA and OTAC suggested alternative language. Subsequently the bill was amended to exclude the language at issue. The bill passed the Senate on August 12 and now the Assembly must vote to concur with the Senate's amendments.http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_1601-1650/ab_1647_bill_20100628_amended_sen_v92.html

Illinois: IL EO 32 was issued by Governor Pat Quinn on July 30. The executive order creates the Health Reform Implementation Council. The purpose of the council is to make recommendations to the governor regarding the implementation of health care reform. The council will make recommendations on opportunities in the Affordable Care Act (ACA) for states to establish a health insurance exchange; to reform Medicaid service structures; to develop an adequate health care workforce; to incentivize delivery systems to assure high quality health care; to identify federal grants, pilot programs, and other non-state funding sources to assist with implementation of the ACA; and to foster widespread adoption of electronic medical records and participation in the Illinois Health Information Exchange.
http://www.illinois.gov/publicincludes/statehome/gov/documents/EO%2010-12.pdf

Massachusetts: MA HB 4935 was signed in to law by Governor Deval Patrick on August 3. The bill requires coverage of medically necessary autism treatments and therapeutic care, including occupational therapy. The bill is unique in that it does not establish age registrations nor does it establish a monetary cap on benefits. Massachusetts is the 23rd state to enact autism insurance reform legislation.
http://www.mass.gov/legis/bills/house/186/ht04pdf/ht04935.pdf

New Mexico: Governor Bill Richardson issued an executive order, NM EO 32, on August 11 establishing the State Office of Health Care Reform which expands the health care reform leadership team to facilitate implementation of Federal Health Care Reform.

The office will assist the leadership team in providing advice, guidance, and specific recommendations to the Governor with respect to implementation of state health initiatives and federal health care reform.
http://www.governor.state.nm.us/orders/2010/EO_2010_032.pdf

New York: In special session "w" for the State Budget, New York introduced NY AB 2w and its companion bill NY SB 1w on July 30. The legislation establishes the Federal Medicaid Assistance Percentages (FMAP) contingency fund to be distributed if federal Medicaid percentages are not extended by January 1, 2011. This legislation seeks to provide funding for Medicaid services if federal funds which currently provide monetary assistance for these services are not available in the future. The Assembly version was sent to the Committee on Ways and Means, and the Senate version was sent to the Senate Committee on Rules before being transferred to the Committee on Finance in August.
http://assembly.state.ny.us/leg/?default_fld=&bn=A41002%09%09&Summary=Y&Actions=Y&Text=Y#jump_to_Text

In related legislation, President Obama signed H.R. 1586 to provide states with $16 billion in increased FMAP payments to struggling state Medicaid coffers through June 2011.
http://vocusgr.vocus.com/GRSPACE2/WebPublish/Controller.aspx?SiteName=AOTA&Definition=ViewIssue&IssueID=6759

Regulations:

Kentucky: A series of proposed rules (902 KAR 30:001, 902 KAR 30:110, 302 KAR 30:120, 902 KAR 30:130, 902 KAR 30:150, 902 KAR 30:160, 902 KAR 30:180, KAR 902 30:200) were published on August 1 that regulate First Steps, Kentucky's early intervention program. These proposed rules define terms; set forth the point of entry and service coordination provisions; establish the evaluation, eligibility and redetermination of eligibility requirements; amend rules to establish the provisions of assessment and the individualized family service plans; set forth provisions for provider qualifications, including OTs; amend rules to set forth the provisions of covered services, including OT; set rates to be paid to providers for the provision of approved services, including OT; and amend rules to set forth the procedures for procedural standards for facilities participating in the First Steps program.

Kentucky: 781 KAR 1:040, published on August 1, prescribes the requirements for the provision of rehabilitation technology services in order to distribute funds more equitably over the entire population of otherwise eligible individuals. The proposed rule defines "rehabilitation technology specialist" as an individual who analyzes the needs of individuals with disabilities, assists in the selection of the appropriate assistive technology, and trains the eligible individual on how to properly use the specific equipment. The focus of the proposed rule is on driver rehabilitation, and it defines "driver rehabilitation specialist" as an individual who plans, develops, coordinates, and

implements driver rehabilitation services for individuals with disabilities. "Driver evaluation" in this case is a clinical and behind-the-wheel evaluation by a certified driver rehabilitation specialist to identify an eligible individual's driver rehabilitation needs to allow that person to drive independently.

Missouri: Proposed and adopted on June 24, but not published until August 2, Missouri 12 CSR 10-24.485 establishes the criteria for placement of a permanent disability indicator on a driver or nondriver license. To obtain a permanent disability indicator on a driver or nondriver license, an applicant must present a medical statement completed and certified by a healthcare practitioner that states that the applicant is "permanently disabled". Occupational therapists are included in the list of healthcare practitioners that may provide a medical statement verifying that an applicant is "permanently disabled".

New Hampshire: Proposed rule Ath 102 was published on August 13, and clarifies what it means for an athletic trainer to practice under direct supervision of a physician. The full text of this regulation is not yet available; clarification of the supervision requirement will be provided when more than the summary of the regulation is available.

New York: Title 8 NYCRR Section 100.2, proposed on August 4, allows a school district to provide a Response to Intervention (RTI) program in lieu of providing Academic Intervention Services (AIS) if: (i) the RTI program is provided in a manner consistent with the RTI guidelines (Education Law subdivision (ii) of section 100.2); (ii) the RTI program is made available at the grade levels and subject areas (reading/math) for which students are identified as eligible for AIS; (iii) all students who are otherwise eligible for AIS shall be provided such AIS services if they are not enrolled in the RTI program; and (iv) for the 2010-2011 school year, the school district shall submit to the Department, no later than December 15, 2010, a signed statement of assurance that the services provided in the RTI program meet the requirements listed above; and for each school year thereafter, the school district shall submit to the Department no later than September 1st of such school year, a signed statement of assurance that the services provided under the district's RTI program meet the requirements listed above.

Texas: 40 TAC 12.369.369.3 will go in to effect on August 19 and clarifies the use of titles and professional degrees when signing documents. A licensed occupational therapist shall use the title occupational therapist or the initials OT. OTR is an alternate term for OT if an individual who is licensed by the TX board takes the responsibility for ensuring that he or she is qualified to use it. A licensed occupational therapy assistant shall use the title occupational therapy assistant or the initials OTA. COTA is an alternate term for OTA if an individual who is licensed by the TX board takes the responsibility for ensuring that he or she is qualified to use it. When practicing occupational therapy, any letters designating other titles, academic degrees, or certifications must follow the initials OT or OTA (example John Doe, OT, CHT or Jane Doe, OTR, PhD).

Texas: 40 TAC 12.373.373.2 clarifies that on-site supervision by a regularly licensed occupational therapist is required for a temporary licensee practicing occupational therapy. This regulation will go in to effect August 19.

Texas: 40 TAC 12.374.374.1 goes in to effect August 19, and clarifies that a licensee or applicant convicted of a felony must report to the conviction to the board within 60 days.

Texas: 40 TAC 12.374.374.2 adds "failing to give sufficient prior written notice of resignation of employment (or termination of contract) resulting in loss or delay of patient treatment for those patients under your care" as an additional category of detrimental practice. This will go in to effect on August 19.

Vermont: Proposed regulation 10P032, proposed on August 5, amends rules to implement State Fiscal Year 2011 coverage changes by limiting the number of covered visits for physical therapy, occupational therapy and speech therapy to 30 visits per year for adults and Vermont Health Access Program (VHAP) beneficiaries. VHAP is an affordable health care program, provided by the Vermont Campaign for Health Care Security Education Fund, that provides health care to state residents 18 years of age or older who are uninsured and meet income eligibility requirements. The proposed rule also stipulates that the Department of Vermont Health Access (DVHA) shall allow additional visits through prior authorization for individuals with spinal cord and traumatic brain injuries, stroke, amputation or severe burn.

AOTA Contact for State Legislative and Regulatory Issues:
Marcy Buckner
State Policy Analyst
mbuckner@aota.org
301-652-6611 ext 2016

AOTA State Issue Update
September 13, 2010

This update summarizes the state legislative and regulatory activity from August 30 – September 13 that could impact the profession. Additional information about these proposals is available upon request. This report is distributed to state occupational therapy association presidents and state OT association legislative/government affairs chairs.

Health Reform:

The Patient Protection and Affordable Care Act (PPACA) charged the US Department of Health and Human Services to coordinate efforts with the National Association of Insurance Commissioners (NAIC) to provide guidance for the implementation of health care reform.

AOTA has hired an outside consultant from Stateside Associates to monitor the work of NAIC and its subcommittees that have been created to develop resources for future state and federal regulations. Stateside provides AOTA with weekly reports detailing the progress of NAIC.

Of interest to occupational therapy practitioners, NAIC developed and recently revised the definition of rehabilitation and habilitation.

AOTA's consultant worked to keep AOTA informed of the discussions, and AOTA is pleased that OT is included in these definitions which are expected be used as a resource for future regulations. AOTA will continue to monitor the progress of NAIC. To view Stateside Associates' weekly NAIC reports, click here:

- **August 20, 2010** - ***pdf, 389 kb***
- **August 27, 2010** - ***pdf, 341 kb***
- **September 3, 2010** - ***pdf, 1.5 mb***
- **September 10, 2010** - ***pdf, 2.3 mb***

Legislation:

California: Existing law requires a health care practitioner to disclose, while working, his or her name and practitioner's license status on a name tag in at least 18-point type or prominently display his or her license in his or her office. CA AB 583 would have required health care practitioners to display the type of license *and highest degree held* on the practitioner's nametag in 18 point font. The Occupational Therapy Association of California contacted the sponsor, Assemblymember Hyashi, concerning the burden this would place on practitioners. The bill, which was sent to Governor Schwarzeneggar for

his signature on September 3, was amended to now require health care practitioners to display the type of license and, except as specified, the highest level of academic degree he or she holds either prominently displayed in his or her office, or in writing given to a patient on his or her initial office visit instead of having this displayed on the practitioner's nametag..
http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0551-0600/ab_583_bill_20100831_enrolled.html

California: CA AB 2042, which was also sent to Governor Schwarzeneggar on September 3, prohibits a health care service plan or health insurer from altering the rates that apply to individual plan contracts or policies, or altering any benefits included in individual contracts or policies, more than once each calendar year. There is an exception for policies issued through a publicly funded state health care coverage program.
http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_2001-2050/ab_2042_bill_20100831_enrolled.html

Minnesota: MN Executive Order 24, issued on August 31, directs all executive branch departments and agencies that no application shall be submitted to the federal government in connection with requests for grant funding for programs and demonstration projects deriving from the Patient Protection and Affordable Care Act unless otherwise required by law, or approved by the office of the Governor. Governor Pawlenty is being criticized by political experts who view the issuance of the executive order as a means for Pawlenty to gain exposure for his presidential ambitions. Gov. Pawlenty told reporters in Minnesota that he would do all in his power to limit the reach of the new health care law during his remaining four months in office. "Anything that I can do to slow down, limit or negate Obamacare, I'm going to try to do it within reason," he said. For a copy of EO 24, click on this link:
http://www.governor.state.mn.us/priorities/governorsorders/executiveorders/PROD010117.html

Regulations:

Alabama: 700-X-3-.05, proposed on September 2, provides that licensed physical therapists and physical therapy assistants, as well as nonlicensed physical therapy support personnel must provide identification of their credentials to individuals who come in to contact with them during to provision of physical therapy services. Appropriate identification includes embroidery, clip-ons, paper nametags, name badges, or other appropriate means.

Arizona: R9-28-206, published and adopted on August 27, amends rules concerning covered services provided for an Arizona Long Term Care Services member regarding occupational and physical therapies, speech and audiology services, and respiratory therapy. The amendment provides that the Arizona Health Care Cost Containment

System Administration will not cover more than 15 outpatient physical therapy visits for the contract year with the exception of the required Medicare coinsurance and deductible payment under 9 A.A.C. 29, Article 3. The amendment does not place a limit on occupational therapy.

Kentucky: 201 KAR 22:045, 201 KAR 22:135, 201 KAR 22:020, 201 KAR 22:053, and 201 KAR 22:070 were adopted on September 1 and amend the physical therapy rules regarding continued competency requirements and procedures; fees required to apply for a credential by application, reinstatement, or renewal; the criteria for eligibility for a credential in physical therapy; the code of ethical standards and disciplinary actions; and provisions for the evaluation of foreign-educated physical therapists applicant's educational credentials.

Maine: 10-144-101, Ch. II, Section 68, adopted on September 1, provides rules regarding the number of goals to facilitate the delivery of occupational therapy services in school settings; allows services to be ordered by a practitioner of the healing arts; removes the maximum limit of two visits per year for sensory integration for members under age 21; and establishes schools as an eligible provider. 10-14-101, Ch. II, Section 85 does the same for physical therapy, and 10-144-101, Ch. II, Section 109 does the same for speech and hearing services in schools.

Missouri: 20 CSR 2205-5.010, published on September 1, clarifies the continuing competency requirements for occupational therapist and occupational therapy assistants. The requirements have not changed and are still 24 CCCs per biennial review, and 50% of the credits must be directly related to the delivery of occupational therapy services and the remaining CCCs must be related to one's practice area or setting. The proposed regulation provides further clarification of acceptable CCCs.

Oklahoma: OAC 317:50-1-1 to -16 was published in the Oklahoma Register on September 1, but became effective via an emergency adoption on August 1. This emergency rule revises rules to implement a new Home and Community Based Waiver Program (HCBW) to accommodate the "medically fragile" population with medical conditions requiring services in excess of those offered by current HCBW programs. This Program will finance non-institutional long-term care services for individuals requiring skilled nursing or hospital level of care. Individuals must be at least 19 years of age, have a chronic medical condition which results in prolonged dependency on medical care for which daily skilled intervention is necessary and is characterized by one or more of the following: (1) a life threatening condition characterized by reasonably frequent periods of acute exacerbation which requires frequent medical supervision and/or physician consultation and which, in the absence of such supervision or consultation, would require hospitalization; (2) the individual requires frequent time consuming administration of specialized treatments which are medically necessary; (3) the individual is dependent on medical technology such that without the technology, a reasonable level of health could not be maintained. Occupational therapy is included as a covered service in the Medically Fragile Program.

Oregon: OAR 335-060-0010, -095-0030, -0040, -0055 was published in the Oregon Bulletin on September 1, but became effective via temporary rule adoption on August 11. This rule clarifies and reinforces the requirements that speech language pathologists (SLPs) in Oregon must be licensed by the Board of Examiners for Speech-Language Pathology and Audiology or be exempt from Board licensure under an exception in the Oregon rules in order to supervise speech-language pathology assistants (SLPAs). The exemption from Board licensure does not limit the duties that can be performed by an SLP appropriately licensed by the teacher Standards and Practices Commission (TSPC). However, the Board has statutory authority to determine criteria under which this supervision takes place.

Wisconsin: Ins 3.36, adopted on September 2, provides rules relating to the implementation of mandated insurance coverage for the treatment of autism spectrum disorders. This rule defines and differentiates between intensive-level evidence-based behavioral therapy and nonintensive-level evidence-based therapy; includes provisions to permit individuals who are currently providing services through the department's waiver program to be deemed qualified for up to two years for continuity of care; and permits insurers and self-funded plans to contract with these individuals who are experienced but may not meet the qualifications for providing intensive or nonintensive services. A current, valid state-issued license or certificate is necessary in order for a psychiatrist, psychologist, behavior analyst, social worker certified or licensed to practice psychotherapy, speech pathologist, or occupational therapist to be qualified to provide nonintensive-level services or to implement an intensive-level treatment plan. For a person who is a qualified professional working under the supervision of an outpatient mental health clinic, the clinic shall be certified in order for the professional to provide nonintensive-level services or to implement an intensive-level treatment plan developed by a qualified intensive-level provider. The rule also addresses further administrative concerns. Occupational therapists are included as "qualified therapists" who may provide evidenced-based therapy.

According to the rule, "qualified intensive-level provider" means an individual acting within the scope of a currently valid state-issued license for psychiatry, psychology or behavior analyst, or a social worker acting within the scope of a currently valid state-issued certificate or license to practice psychotherapy, who provides evidence-based behavioral therapy and who has completed at least 2080 hours of training, education and experience which includes all of the following:1. Fifteen hundred hours supervised training involving direct one-on-one work with individuals with autism spectrum disorders using evidence-based, efficacious therapy models. 2. Supervised experience with all of the following: a. working with families as the primary provider and ensuring treatment compliance; b. treating individuals with autism spectrum disorders who function at a variety of cognitive levels and exhibit a variety of skill deficits and strengths; c. treating individuals with autism spectrum disorders with a variety of behavioral challenges; d. treating individuals with autism spectrum disorders who have shown improvement to the average range in cognitive functioning, language ability, adaptive and social interaction skills; and e. designing and implementing progressive treatment programs for individuals with autism spectrum disorders. 3. Academic

coursework from a regionally-accredited higher education institution with demonstrated coursework in the application of evidence-based therapy models consistent with best practice and research on effectiveness for individuals with autism spectrum disorders.

Wyoming: Chapter 6, adopted and effective on August 31, provides rules for continuing education for physical therapists. Twenty hours of continuing education are required for each biennium, beginning October 2009.

AOTA Contact for State Legislative and Regulatory Issues:
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301-652-6611 ext 2016

AOTA State Issue Update
October 26, 2010

This update summarizes the state legislative and regulatory activity from September 27 – October 26 that could impact the profession. Additional information about these proposals is available upon request. This report is distributed to state occupational therapy association presidents and state OT association legislative/government affairs chairs.

Health Reform:

AOTA has hired an outside consultant from Stateside Associates to monitor the work of NAIC and its subcommittees that have been created to develop resources for future state and federal regulations. Stateside provides AOTA with weekly reports detailing the progress of NAIC.

Of interest to occupational therapy practitioners, NAIC developed and recently revised the definition of rehabilitation and habilitation that will be used in information to explain health insurance to consumers. AOTA will be advocating for language to specifically mention occupational therapy in the definition of habilitation just as it is included in the definition of rehabilitation.

Here is the latest information from the workgroup that is developing the definitions (as of October 26, 2010):

Rehabilitation:
Current Definition: Health care services that help a person keep, get back or improve skills and functioning for daily living that have been lost or impaired because a person was sick, hurt or disabled. These services may include physical and occupational therapy, speech-language pathology and psychiatric rehabilitation services in a variety of inpatient and/or outpatient settings.

Recommendation: Keep it as is. There was some comment about the word "keep" being in there but the working group has discussed this before and although maintenance therapy to help someone keep a skill long-term is not covered, there is an element of rehab aimed at preventing further deterioration, which is captured by "keep." The group was OK with that before so let's leave it as is.

Habilitation
Suggest making the definition more parallel to rehab, especially since consumer testing on the summary of benefits indicated that people don't naturally know what habilitation is. Other comments had to do with adding the concept of habilitation being only for a medical condition but since the regulations have not come out yet for essential benefits, it seems best to not try to predict what will be there. It is also implied that these services would be ordered or recommended by a

physician for insurance to pay so there is an expectation of medical necessity. So, here is the recommended definition:

Recommendation: Health care services that help a person keep, learn, or improve skills and functioning for daily living. Examples include therapy for a child who is not walking or talking at the expected age. *These services may include physical and occupational therapy, speech-language pathology, and psychiatric rehabilitation services in a variety of inpatient and/or outpatient settings.*

Source document: NAIC Consumer Information (B) Subgroup Standard Definitions Glossary Assignments for Second Round Revisions (as of 10/26/10)

To view Stateside Associates' most recent weekly NAIC report, click here:

- **October 1, 2010**
- **October 8, 2010**
- **October 15, 2010**
- **October 22, 2010**

Legislation:

California: Existing law requires a health care practitioner to disclose, while working, his or her name and practitioner's license status on a name tag in at least 18-point type or prominently display his or her license in his or her office. CA AB 583 would have required health care practitioners to display the type of license *and highest degree held* on the practitioner's nametag in 18 point font. The Occupational Therapy Association of California contacted the sponsor, Assemblymember Hyashi, concerning the burden this would place on practitioners. The bill was amended to require health care practitioners to display the type of license and, except as specified, the highest level of academic degree he or she holds either prominently displayed in his or her office, or in writing given to a patient on his or her initial office visit instead of having this displayed on the practitioner's nametag. Governor Schwarzeneggar signed the bill on September 29. http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0551-0600/ab_583_bill_20100831_enrolled.html

New Jersey: NY AB 3334, introduced on October 7, expands the scope of claims subject to the "Health Claims Authorization, Processing and Payment Act" to include prompt authorization for claims involving benefits provided by occupational therapists, physical therapists, and speech-language pathologists. http://www.njleg.state.nj.us/2010/Bills/A3500/3334_I1.HTM

New York: Governor David Paterson vetoed NY AB 10372A and its companion bill NY SB 7000B on October 20. The bill would have required health plans to cover evidence-based, medically necessary autism treatments and contained no age or dollar caps. The legislation required the creation of regulations to identify treatment and therapy options

for which coverage would have been required for the screening, diagnosis, and treatment of autism spectrum disorders. Occupational therapy was expected to be covered as a type of autism treatment.
http://assembly.state.ny.us/leg/?default_fld=&bn=A10372%09%09&Summary=Y&Actions=Y&Text=Y

Regulations:

Connecticut: In an uncodified proposed rule published on September 30, the Department of Social Services seeks to revise the rates setting methodology for Medicaid School Based Child Health (SBCH) services effective October 1, 2010. The proposed rule modifies the Medicaid SBCH reimbursement from state aggregate cost-based rates for evaluation and monthly services to a local agency (LEA) service-specific rate methodology. Occupational therapy is included as a type of service provided through SBCH.

Georgia: GAC 53-02-.03, .06; -03-.01, -.02; -4-.02, proposed on October 12, clarifies the definition of athletic trainer to exclude persons providing services as a first responder, and further defines types of injuries for which they may provide care. The proposed rule seeks to define an athletic injury as any injury sustained by a person as a result of such person's participation in exercise, sports, games, recreation, or other activities which require physical strength, agility, flexibility, range of motion, speed, or stamina and any injury, without respect to where or how the injury occurs, which prevents such person from participating in the previously listed activities.

Idaho: IDAPA 24.06.01, proposed August 18 but not published until October 6, clarifies direct, close, and routine supervision requirements; provides qualification requirements for OTs and OTAs utilizing techniques involving deep thermal, electrotherapeutic modalities, or wound care management; and clarifies the inactive license status and the requirements to reinstate a license.

Kentucky: 201 KAR 28:010, published on October 1, sets forth the definitions of terms and phrases which will be used by the board in enforcing and interpreting the provisions regulation occupational therapists and occupational therapy assistants.

Kentucky: 201 KAR 28:130, published on October 1, amends rules concerning the requirements of supervision for occupational therapy assistants, aides, students, and temporary permit holders; and amends rules concerning the documentation required in supervision, and the process for reviewing the supervision process. The amendments provide that the supervising OT/L and the individuals under supervision will both keep logs documenting whether the supervision was face-to-face, the dates of the supervision, and the hours worked by the OT/L. Review of the supervision process will occur by random audit.

Maine: 02-041-10, proposed on September 29, increases the license fees for nine professional and occupational licensing programs administered by the Office of Licensing and Registration. The proposed increase affects occupational therapy practitioners as follows:

- OT license fees increase from $80 to $120 for a 2 year license.
- OTA license fees increase from $70 to $110 for a 2 year license.
- Temporary 6 month OT license fees increase from $25 to $60.
- Temporary 6 month OTA license fees increase from $20 to $60.

The same regulation provides for a $10 decrease in license fees for an annual physical therapy or physical therapy assistant license.

Maine: 10-144-101, Ch III, Section 68, proposed on July 7 and adopted on October 7, specifies a reduction in rates of 10% for all occupational therapy services covered by MaineCare. The regulation is the result of the enactment of ME LD 1671, the supplemental appropriations bill, which ordered MaineCare Services to reduce the OT rate by 10%.

Nebraska: Title 471 NAC Chapter 018, proposed on October 1, amends rules concerning Medicaid and pediatric feeding disorder clinics and provides for comprehensive interdisciplinary treatment for a severe feeding disorder. Comprehensive interdisciplinary treatment means the collaboration of medicine, psychology, nutrition science, speech therapy, occupational therapy, social work, and other appropriate medical and behavioral disciplines in an integrated program. Nebraska Medicaid may cover comprehensive interdisciplinary treatment for an infant or child with a severe feeding disorder that impacts the infant's or child's ability to consume sufficient nutrition orally to maintain adequate growth or weight. Prior authorization is required of all services before the services are provided.

Nevada: NAC 641.001, .017, .020, .025, .028, .050, .061, .112, .120, .132, .133, .135, .136, .140, .150-.245 (non seq), proposed on December 30 and adopted on October 16, establishes licensure provisions for behavior analysts and autism behavior interventionists.

Ohio: OAC 4753-3-07, -11, -5-01, adopted on September 29, amends rules specifying requirements for onsite supervision occurring via telepractice applications during the supervised professional experience year for speech language pathologists and audiologists. The rule now provides that when onsite supervision occurs via telepractice applications, supervision shall occur using real time, synchronous, encrypted videoconferencing. Asynchronous, recorded therapy sessions submitted for later review shall not meet the requirements for onsite supervision.

Oklahoma: OAC 340:100-18-1 was proposed and adopted on August 13, but was not published until October 1. This regulation establishes rules to provide for licensing and certification of behavior analysts in an effort to bring more practitioners to the state. "Applied behavior analysis" is defined as the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant

improvements in human behavior through skill acquisition and the reduction of problematic behavior. This regulation does not restrict the practice of applied behavior analysis by human services professionals, including occupational therapists, provided such individuals are working within the scope of their professions and the practice of applied behavior analysis is commensurate with their level of training and experience.

Texas: A series of regulations relating to speech pathology and audiology were proposed on September 17: 22 TAC 32.741.A.741.1; 22 TAC 32.741.B.741.11 -.15; 22 TAC 32.741.C.741.31 -.33; 22 TAC 32.741.C.741.31 -.33; 22 TAC 32.741.D.741.41 -.45; 22 TAC 32.741.E.741.61 -.65; 22 TAC 32.741.F.741.81 -.85; 22 TAC 32.741.G.741.91; 22 TAC 32.741.I.741.111; .112; 22 TAC 32.741.J.741.121 .122; 22 TAC 32.741.K.741.141; 22 TAC 32.741.L.741.161, .162, .164, .165; 32 TAC 32.741.741.163; 22 TAC 32.741.M.741.181, .182; 22 TAC 32.741.N.741.191 -.202. These proposed rules clarify definitions, including telehealth; communication and hearing screening procedures; the code of ethics; application, examination, fees, licensure, and continuing education requirements.

Texas: 22 TAC 32.741.O.741.211 -.215, proposed on September 17, creates new rules concerning telehealth provided by audiologists. Telehealth is defined as the use of telecommunications and information technologies for the exchange of information from one site to another for the provision of speech-language pathology or audiology services

Washington: On October 6, the Department of Social and Health Services/Medicaid Purchasing Administration issued a proposal statement of inquiry, WAC 388-438, 388-517-0500, 388-531-1300, 388-535, 388-537, 388-544, 388-545, 388-547, 388-551, stating that upon order of the governor, the Medicaid Purchasing Administration (MPA) must reduce its budget expenditures for the current fiscal year ending June 30, 2011, by 6.3%. To achieve this budget reduction, MPA anticipates making cuts to the following adult medical services effective January 1, 2011: dental, hospice, vision, podiatry, and hearing aids. Additional cuts will include school-based medical services, state-only alien emergency medical, interpreter services, Medicare Part D copayments, and physical, occupational, and speech therapies. A letter from the Department of Social and Health Services/Medicaid Purchasing Administration to stakeholders concerning the 6.3% Medicaid cuts is available here: http://www.doh.wa.gov/sboh/Meetings/2010/10-13/docs/Tab03h-HCAMPARed.pdf

Wisconsin: On October 15, the Department of Regulation and Licensing issued a statement of scope of a proposed rule which will create the initial administrative rules of the Department of Regulation and Licensing for Behavior Analysts.

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STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
DIVISION OF LEGAL AFFAIRS
1625 N. Market Blvd., Suite S 309, Sacramento, CA 95834
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MEMORANDUM

DATE: October 7, 2010

TO: Executive Officers
Board Presidents/Chairs

FROM: DOREATHEA JOHNSON
Deputy Director
Legal Affairs

SUBJECT: Board Meeting Protocols

Three Duties for Board Meetings

1. Give adequate notice of meetings that will be held and agenda items.
2. Conduct meetings in open session.
3. Provide the public an opportunity to comment.

First Duty
Adequate Notice of Meetings and Agenda Items

1. Timely – Law requires 10 days notice to those on a mailing list and posting notice and agenda on your website.
2. Specific Notice – Detailed, itemized agenda, identifying all items of business to be conducted at the meeting.
   - Items not on agenda cannot be discussed nor can they be acted on.
   - Can't discuss items under the heading of "New or Old Business" unless they are specifically identified.
   - Test for Specific Notice --Is an item specific enough for a member of the public to reasonably ascertain the nature of the business to occur at the meeting?

Second Duty
Conduct Meetings

Open Session

General rule: Meetings must be conducted in Open Session and all discussion and actions must take place in the public, unless specifically authorized by law to go into closed session, with regard to that item of business.

Vote in public – Votes must be publically taken. Secret votes or votes by proxy are not permitted.

Closed Session

Business statutorily authorized to be conducted in closed session:

- Disciplinary matters;
- Preparing, approving or grading examinations;
- Pending litigation;
- Matters affecting personal privacy;
- Executive officer appointment, employment or dismissal.

Once in closed session, you can only discuss those matters that were identified as closed session on your agenda.

Third Duty
Public Comment At The Meeting

General Rule

Must allow public comment on each open session agenda item.

Suggested script to be read at the beginning of the meeting:

The Board Chair will allow public comment on agenda items, as those items are taken up by the Board, during the meeting. Under the Open Meetings Act, the Board may not take any action on items raised by public comment that are not on the Agenda, other than to decide whether to schedule that item for a future meeting.

If any person desires to address the Board, it will be appreciated if he or she will stand or come forward and give his or her name, and if he or she represents an organization, the name of such organization, so that we will have a record of all those who appear. Please note that a person wishing to provide comment is not

required to identify him or herself when making public comment, but it is appreciated.

In order to allow the Board sufficient time to conduct its scheduled business, public comment will be limited to ___ minutes. Please make your comments focused and relevant to the duties of the Board. It is not necessary to repeat statements or views of a previous speaker, it is sufficient to state that you agree. Written statements should be summarized and submitted to the Board. They should not be read.

If as chairperson/president, I forget to ask for public comment on an agenda item, it is not because I intend to limit comment but just because I forgot. So in that situation, please raise your hand and I will recognize you.

Suggested script to be used for each item on the agenda:

1. Call the Agenda Item
2. Committee Presents the agenda item
3. Ask for a motion
4. Ask for a second, unless the motion is made by the committee (second is not needed)
5. Ask for board discussion.
6. Ask if there is public comment. [You may reverse the order of these 2.]
7. Ask if there is further board discussion
8. Repeat the Motion
9. Take the vote

Suggested script for public comment on items not on the agenda:

The board values input from the public as part of its consumer protection mission. It invites and welcomes public comment during this section of the agenda. However, board members cannot engage in dialogue with those who testify during this section of the agenda due to constraints imposed on the board and its members by law. The law prohibits the board from substantively discussing or voting on any matter brought up during public comment. A member of the public who would like the board to discuss a general topic not related to a specific case involving one of its licensees can ask the board to consider placing the issue on the board's agenda for a future meeting.

If you have an application or disciplinary charges pending before the board, we ask that you not discuss the details of your case or pending complaint since the board members will be the "judges" and by law are not permitted to receive evidence or information that is not part of the administrative record in the case.

Disruptive persons:

The public has the right to express its disapproval, and may sometimes make emotional presentations. It is the board's duty and obligation to allow that public comment. Since the purpose of the meeting is for the agency to conduct its business, commenters shouldn't be permitted to thwart that purpose and may be

removed from the meeting if disruptive behavior continues after a request that it stop.

Suggested script to use when there is a disruptive person:

Under the Open Meetings Act (Government Code Section 11126.5), if you continue in this manner, I will ask you to leave the meeting and if you do not leave the meeting, you will be removed. Accordingly, I am asking you to discontinue your disruptive conduct so that all participants can be heard in an orderly fashion.

Miscellaneous

Wording of Motions

- Motions must be clearly worded.
- The test: Could a reasonable person reading the motion understand what the board meant to accomplish?
- Chair should restate the motion before the discussion and just before the vote is taken

Improper Disclosure of Information

- Improper for information received during closed session to be publicly disclosed without authorization of the body as a whole.

Role of the Attorney

The attorney's role during board meetings is to advise the agency of its obligations and authority under the law when it appears that the agency may be deviating from it, e.g. Open Meetings Act, quorum requirements, practice acts, regulations. In some cases, it may be necessary for the attorney to assist the agency in identifying an issue, framing a motion that accurately reflects the agency's deliberations and intent or seeking clarification from a speaker or board member.

When a problem is identified, the attorney is expected to assist the board in developing a lawful alternative method of accomplishing the board's goal.

It is not the attorney's responsibility or role to chair the meetings or direct the discussion. And the attorney should refrain from doing so even if requested to take on that role.

ENFORCEMENT DATA AND REPORTS.

The following are attached for review:

- Enforcement Statistical Report
- Probationer Roster
- Citation Statistics

BOT ENFORCEMENT STATISICAL REPORT
July 1, 2010 – September 30, 2010

Total Complaints-Received: 99

Complaints-Closed: 202

Total Complaints-Pending: 99
(oldest: 6/26/06)

DOI Investigations Initiated: 3

DOI Investigation Reports Received: 1

Formal DOI Investigations Pending: 8
(oldest: 3/10/10)

Record of Arrests and Prosecutions [RAP] Received: 6
Subsequent Arrest Reports Received: 8

Applications Denied pursuant to Business and Professions Code 480/485: 2

Cases Pending with the Attorney General (AG): 20

Transmitted	Complaint No	Type	Current Status
02/19/09	OT2007-90	Accusation	Stip adopted, Three years Probation effective 11/11/10
04/29/09	OT2008-129	Accusation	Default Decision Vacated 4/1/10, hearing scheduled 1/18/11
05/05/09	AL2008-126	SOI	Statement of Issues filed 3/9/10, NOD recd, hearing scheduled 2/8/11
08/17/09	OT2005-179	Accusation	Stip adopted; Three years Probation effective 11/11/10
09/22/09	OT2008-374	Accusation	Accusation filed 3/23/10, NOD recd, hearing scheduled 3/7/11
11/18/09	OA2008-107	Accusation	Accusation filed 3/5/10, Proposed Decision to be considered by Board 11/4/10
12/14/09	OT2008-462	Accusation	DAG to draft Accusation, PC23 issued 3/4/10
01/20/10	OT2008-87	Accusation	Accusation filed 5/14/10, NOD recd, hearing scheduled 12/15/10
02/09/10	AL2009-85	SOI	Statement of Issues filed 5/24/10, Stip to be considered by Board 11/4/10
02/24/10	OT2007-43	Accusation	Accusation filed 9/2/10, Default Decision to be considered by Board 11/4/10
03/25/10	D12008-13	Pet to Rev Prob	Pet to Revoke Probation filed 5/24/10, Stip to be considered by Board 11/4/10
04/26/10	D12009-84	Pet to Rev Prob	Stip adopted, Voluntary Surrender effective 11/10/10
07/21/10	D12008-77	Pet to Rev Prob	DAG to draft Petition to Revoke Probation
08/03/10	OA2009-134	Accusation	DAG to draft Accusation
08/09/10	OT2008-407	Citation	Received appeal for hearing, hearing scheduled 3/29/11
08/12/10	D12006-360	Pet to Rev Prob	DAG to draft Petition to Revoke Probation
08/31/10	OT2009-278	Accusation	DAG to draft Accusation
09/02/10	OA2009-266	Accusation	DAG to draft Accusation
09/09/10	OT2008-101	Accusation	DAG to draft Accusation
09/15/10	D12004-124	Pet to Rev Prob	DAG to draft Petition to Revoke Probation
09/16/10	OT2009-43	Accusation	DAG to draft Accusation

Statement of Issues filed: 0
Petition to Revoke Probation filed: 1

Accusations filed: 1
Accusation & Petition to Revoke Probation filed: 0

Report prepared 10/27/10

Final Decisions: **5**

September 1, 2010	Solena Clements	Probation, 3 years
August 19, 2010	Anne Hickey	Probation, 3 years
July 26, 2010	Deborah Ryan	Voluntary Surrender
September 1, 2010	Mary Searcy	Probation, 2 years
August 28, 2010	Emily Vrkljan	Voluntary Surrender

CA Board of Occupational Therapy

PROBATIONER ROSTER

Practitioners Placed on Probation

NAME	LICENSE #	EFFECTIVE DATE	LENGTH
Westlund, Kelorie	OT 3827	12/22/05	5 years
Fujikawa, Kris	OT 5673	05/13/07	5 years
Prasad, Alvin	OT 7530	12/03/07	5 years
Baird, Adrian	OT 2060	01/25/08	3 years
Martinez, Ernesto	OT 4089	03/14/08	3 years
Cook, Corrine	OTA 1348	07/24/09	3 years
Lucia, Rinea	OT 6433	08/20/09	3 years
Schmidt, Rebecca *	OT 8291	11/27/09	3 years
Schonbrod, Terri	OT 6305	12/29/09	3 years
Harris, Donald	OTA 1772	04/23/10	4 years
Hassani, Mojgan	OTA 1532	04/23/10	3 years
Belasco, Jonathan	OTA 1063	06/16/10	3 years
Hickey, Anne	OT 7080	08/19/10	3 years
Clements, Solena	OTA 1504	09/01/10	3 years
Searcy, Mary	OT 6209	09/01/10	2 years

Applicants Granted a Probationary License/Certificate

NAME	LICENSE #	EFFECTIVE DATE	LENGTH
Kim, Grace	OT 8982	09/15/06	5 years
Delmo, Lourdes	OT 9556	08/15/07	4 years
Billings, Cynthia	OT 2917	01/30/07	5 years
Bonogofsky, Greg	OT 10090	06/26/08	3 years
Crane, Jody	OT 10136	07/23/08	4 years
Pitts, Andre	OTA 1829	09/23/08	5 years
Jayne, Benjamin	OT 10605	04/10/09	3 years
Adams, Monica S	OT 10760	08/11/09	3 years
Champlin, Susan	OT 10842	09/15/09	3 years
Rogers, Amy	OT 10926	10/29/09	3 years
Severin, Sandra *	OTA 1975	12/22/09	3 years
Smith, Lindsey	OT 11072	01/07/10	30 mos.
Kelly, Anjuli	OT 11186	03/22/10	3 years

*** Tolled**

CITATION STATISTICS
7/1/10-9/30/10

#	LICENSURE CLASS			VIOLATION						CIT. #	FINE (OT)	OT Fine Modified	GRAND TOTAL FINE DUE (OT)	FINE (OTA)	OTA Fine Modified	GRAND TOTAL FINE DUE (OTA)	DATE ISSUED	DUE DATES		Appeal Rcvd		PAYMENT			
	OT	OTA	No Lic	FDC	UPC	CC	ULP	PDU	AD									Req For Conf.	Fine	ICR	ADMIN	Pymnt Date	Pymnt Amnt	Bal (OT)	Bal (OTA)
1		1			1					OA 2007-172				$1,351		$1,351	07/02/10	08/01/10	08/01/10	1					$1,351
1			1							AL 2009 - 274				$250		$250	07/02/10	08/02/10	08/02/10			07/14/10	$250		$0
1	1									OT 2008 - 407	$100		$100				07/02/10	08/02/10	08/02/10		1			$100	
1	1									OT 2010-18	$501		$501				07/22/10	08/23/10	08/23/10			08/23/10	$501	$0	
1	1						1			OT 2009-148	$100		$100				08/03/10	09/02/10	09/02/10			08/26/10	$100	$0	
1		1					1			OA 2009-131				$1,500	$499	$1,001	08/04/10	09/03/10	10/24/10	1		10/18/10	$700		$301
1	1						1		1	OT 2009-881	$2,550	$1,000	$1,550				08/04/10	09/03/10	10/15/10	1		10/12/10	$150	$1,400	
1		1								OA 2006-264				$250		$250	08/09/10	09/08/10	09/08/10			09/13/10	$250		$0
1	1							1		OT 2009-162	$500	$350	$150				08/04/10	09/03/10	09/03/10	1		10/06/10	$150	$0	
1	1						1			OT 2009-186	$250		$250				08/09/10	09/08/10	09/08/10			09/15/10	$250	$0	
1		1						1		OA 2010-3				$500		$500	08/09/10	09/08/10	09/08/10			08/30/10	$500		$0
1	1							1		OT 2008-484	$550		$550				08/09/10	09/08/10	09/08/10			08/23/10	$550	$0	
1	1							1		OT 2009-248	$250		$250				08/12/10	09/11/10	09/11/10			09/02/10	$250	$0	
1		1					1			OA 2009-199				$175		$175	08/12/10	09/13/10	09/13/10			09/13/10	$175		$0
1	1						1			OT 2009-11	$150		$150				08/12/10	09/13/10	09/13/10			09/01/10	$150	$0	
1		1			1					OA 2009-66				$250		$250	08/13/10	09/14/10	09/14/10	1					$250
1	1						1			OT 2008-177	$100		$100				08/13/10	09/12/10	09/12/10			08/26/10	$100	$0	
1		1					1			OA 2007-141				$500		$500	08/24/10	09/23/10	09/23/10			10/06/10	$250		$250
1	1							1		OT 2009-172	$250		$250				08/25/10	09/24/10	09/24/10					$250	
1	1							1		OT 2009-74	$250		$250				08/25/10	09/24/10	09/24/10					$250	
1	1						1			OT 2006-285	$540		$540				08/26/10	09/25/10	09/25/10			09/27/10	$540	$0	
1									1	OT 2010-56	$50		$50				09/01/10	10/01/10	10/01/10	1				$50	
1	1						1			OT 2008-116	$150		$150				09/09/10	10/09/10	10/09/10			09/27/10	$150	$0	
1	1						1			OT 2008-443	$250		$250				09/09/10	10/09/10	10/09/10			10/12/10	$250	$0	
1	1								1	OT 2010-63	$50		$50				09/09/10	10/09/10	10/09/10			10/12/10	$50	$0	
1	1								1	OT 2010-62	$50		$50				09/09/10	10/09/10	10/09/10					$50	
1	1						1			OT 2010-27	$300		$300				09/09/10	10/09/10	10/09/10			09/22/10	$300	$0	
1	1						1			OT 2010-43	$500		$500				09/09/10	10/09/10	10/09/10			10/04/10	$500	$0	
1	1							1		OT 2009-304	$500		$500				09/13/10	10/13/10	10/13/10	1				$500	

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1	1							1		OT 2010-19	$500		$500				09/13/10	10/13/10	10/13/10	1	1			$500	
1	1								1	OT 2010-80	$50		$50				09/16/10	10/16/10	10/16/10					$50	
1	1							1		OT 2010-27	$500		$500				09/20/10	10/20/10	10/20/10					$500	
1		1					1			OA 2009-192				$150		$150	09/20/10	10/20/10	10/20/10			10/13/10	$150		$0
1	1						1			OT 2009-144	$500		$500				09/20/10	10/20/10	10/20/10			10/13/10	$500	$0	
1			1	1						AL 2009 - 180	$250		$250				09/21/10	10/21/10	10/21/10			10/01/10	$250	$0	
1	1				1					OT 2010-85	$250		$250				09/21/10	10/21/10	10/21/10	1				$250	
1	1				1					OT 2007-418	$5,725		$5,725				09/21/10	10/21/10	10/21/10			09/29/10	$5,725	$0	
37	26	8	2	1	4	0	15	9	5		$15,716	$1,350	$14,366	$4,926	$499	$4,427				9	2		$12,741	$3,900	$2,152	

Violation Key:

Applicant

FDC - Failure to Disclose Criminal Convictions
UPC - Unprofessional Conduct-Misrepresent credentials

Licensee

UPC - Unprofessional Conduct
CC - Criminal Convictions
ULP - Unlicensed Practice
PDU - Continuing Education
AD - Failure to Notify of Address Change

Non-Licensed

UL P- Unlicensed Practice

**Citation payments received in this quarter for citations issued in a previous quarter are not reflected in this table.

***Appeals requested in this quarter. Conferences and hearings may have been/will be held within a differenct quarter