



**TELECONFERENCE EDUCATION/OUTREACH COMMITTEE  
MEETING NOTICE & AGENDA**

**Rancho Los Amigos National  
Rehabilitation Center**  
CART Building Conference Room  
7601 E. Imperial Highway  
Downey, CA 90242

*For Directions ONLY*  
(562) 401-6800

**CSU, Dominguez Hills**  
MSOT Program  
Room WHA 310D  
1000 East Victoria Street  
Carson, CA 90747

*For Directions ONLY*  
(714) 943-5741

**Department of Consumer Affairs**  
Lake Tahoe Room -1st floor  
2005 Evergreen Street  
Sacramento, CA 95815

*For Directions ONLY*  
(916) 263-2294

**Eisenhower Medical Center**  
Hand Therapy Clinic  
39000 Bob Hope Drive  
Rancho Mirage, CA 92270

*For Directions ONLY*  
(760) 773-1630

2104 Greenwood Avenue  
San Carlos, CA 94070

*For Directions ONLY*  
(650) 868-9438

**Thursday, August 25, 2011**

**4:00 pm – Committee Meeting**

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

- A. Call to order, roll call, establishment of a quorum.
- B. Approval of the February 24, 2011, meeting minutes.
- C. Review and discussion of the Education/Outreach Committee's Roles and Responsibilities and consideration of recommending changes to the Board.
- D. Discussion and development of consumer-related informational brochures.
- E. Discussion regarding holding Board and committee meetings that are accessible and informative.
- F. Review of the Board's Disciplinary Guidelines and complaint data as it relates to attracting licensees so serve as an Expert Witness.

**\*\*\* MORE INFORMATION ON OTHER SIDE \*\*\***

- G. Review of proposed Fact Sheets and FAQs for individuals serving as an Advanced Practice Reviewer and Expert Witness.
- H. Discussion regarding providing information via podcasts.
- I. Agenda items for next meeting.
- J. Public comment on items not on agenda.
- K. Adjournment

ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE  
ACTION MAY BE TAKEN ON ANY ITEM ON THE AGENDA;  
ITEMS MAY BE TAKEN OUT OF ORDER

Questions regarding this agenda should be directed to Heather Martin, Executive Officer, at the Board's office in Sacramento. Meetings of the California Board of Occupational Therapy are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. A quorum of the board may be present at the committee meeting. Board members who are not members of the committee may observe but not participate or vote. Public comment is appropriate on any issue before the workshop at the time the issue is heard, but the chairperson may, at his or her discretion, apportion available time among those who wish to speak. The meeting is accessible to individuals with disabilities. A person who needs disability related accommodations or modifications in order to participate in the meeting shall make a request to Jeff Hanson at (916) 263-2294 or 2005 Evergreen Street, Suite 2050, Sacramento, California, 95815. Providing at least five working days notice before the meeting will help ensure the availability of accommodations or modifications.

## **AGENDA ITEM B**



**TELECONFERENCE EDUCATION/OUTREACH COMMITTEE  
MEETING MINUTES**

**Thursday, February 24, 2011**

Committee Members Present

Bobbi Jean Tanberg, Board Member  
DeeDee Clark  
Diane Mayfield  
Danielle Meglio

Committee Members Absent

None

Board Staff Present

Heather Martin, Executive Officer

**A. Call to order, roll call, establishment of a quorum**

The meeting was called to order at 3:40; roll call was taken and a quorum of the Committee was present.

**B. Introductions**

The Committee members introduced themselves.

**C. Review of Committee Member Roster/Information.**

The Committee members reviewed their contact information and provided Ms. Martin with the updated information.

**D. Review and discussion of the Education/Outreach Committee's Roles and Responsibilities and consideration of recommending changes to the Board.**

Ms. Martin presented a draft Committee Roles and Responsibilities document for the Committee to review. The Committee had no changes. However, due to the newness of the Committee, it was requested that this item remain as a standing agenda in the event the Committee wanted to recommend changes in the future.

**E. Discussion regarding development of marketing plan and materials to increase participation in Expert Reviewer and Expert Witness Programs.**

Ms. Martin explained the use of Experts and the important role they play: Expert Reviewers review advanced practice applications and applications for advanced practice course approval (submitted by education providers) and Expert Witnesses

review complaints to determine whether there is violation by a licensee or may review an investigation and render a written opinion whether a violation occurred. Ms. Martin explained that licensees were solicited in two different Occupational Therapy Association of California (OTAC) newsletters, information was handed out at two other large events and was on the Board's website, yet there was still a lack of interest by licensees in serving in these critical functions.

Committee members discussed potential obstacles, including the fact the use of the term 'Expert' may be off-putting, most licensees probably don't want to testify in court, and that requiring 15 years of experience was too many.

The Committee asked that Ms. Martin provide at the next meeting, the number of cases that were reviewed by an Expert and the number that went to court.

The Committee requested that Fact Sheets and FAQs be developed for both the Expert Reviewer and the Expert Witness and brought to the Committee for review.

**F. Discussion and development of consumer-related informational brochures.**

Due to time constraints, this item was tabled until the next meeting.

**G. Discussion regarding holding Board and committee meetings that are accessible and informative.**

Due to time constraints, this item was tabled until the next meeting.

**H. Selection of 2011 meeting dates/locations.**

The Committee agreed to hold all meetings at 4:00 pm, via teleconference, and selected the following 2011 meeting dates: June 2<sup>nd</sup>, August 31<sup>st</sup>, and November 10<sup>th</sup>.

**I. Agenda items for next meeting.**

Ms. Martin was directed to bring the Board's Disciplinary Guidelines, complaint/Expert data, and the FAQs and Fact Sheets to the next meeting.

**J. Public comment on items not on agenda.**

No public comment was provided.

**K. Adjournment**

The meeting adjourned at 6:25 pm.

# **AGENDA ITEM C**

**California Board of Occupational Therapy**

**EDUCATION / OUTREACH  
COMMITTEE**

**Roles & Responsibilities**

1. Develop consumer brochures for use by the Board and Board staff;
2. Develop website content to educate consumers about occupational therapy;
3. Develop website content to educate licensees about the regulation of occupational therapy;
4. Prepare articles for newsletter to educate or provide updated information to licensees;
5. Review and provide recommendations to Board staff on revisions to various applications and forms used by the Board.

**AGENDA ITEM D**



Please Refer To  
Materials Provided  
Under Agenda Item F  
Of the Meeting  
Held February 24<sup>th</sup>

(If these items are unavailable, please contact the  
Board's office at 916/263-2294.)

**AGENDA ITEM #**

# **California Board of Occupational Therapy**

## **UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES**

**July 2011**

**Additional copies of this document may be obtained by contacting the Board at its office in Sacramento, California or from its web site at [www.bot.ca.gov](http://www.bot.ca.gov).**

# **CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**

## **UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES**

### **TABLE OF CONTENTS**

- Uniform Standards for Those Licensees Whose License is on Probation Due to a Substance Abuse Problem Page 3
- Disciplinary Guidelines Page 7
- Definition of Penalties Page 8
- Standard Terms and Conditions of Probation (1-13) Page 15
- Optional Terms and Conditions of Probation (14-31) Page 18
- Rehabilitation Criteria Page 24
- Recommended Language for Issuance and Placement of a License on Probation, and Reinstatement of License (Reserved) Page 25

## **UNIFORM STANDARDS FOR THOSE LICENSEES WHOSE LICENSES ARE ON PROBATION DUE TO A SUBSTANCE ABUSE PROBLEM**

The following standards shall be adhered to in all cases in which a licensee's license is placed on probation due, in part, to a substance abuse problem. These standards are not guidelines and shall be followed in all instances, except that the Board may impose more restrictive conditions if necessary to protect the public.

### **Clinical Diagnostic Evaluations:**

Whenever a licensee is ordered to undergo a clinical diagnostic evaluation, the evaluator shall be a licensed practitioner who holds a valid, unrestricted license which scope of practice authorizes him or her to conduct clinical diagnostic evaluations, has three (3) years experience in providing evaluations of health care professionals with substance abuse disorders, and is approved by the Board. The evaluations shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.

### **Clinical Diagnostic Evaluation Report:**

The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee has a substance abuse problem, whether the licensee is a threat to himself or herself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the licensee's rehabilitation and safe practice.

The evaluator shall not have a financial, personal, or business relationship with the licensee within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation.

If the evaluator determines during the evaluation process that a licensee is a threat to himself or herself or others, the evaluator shall notify the board within 24 hours of such a determination.

For all evaluations, a final written report shall be provided to the board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed 30 days.

The Board shall review the clinical diagnostic evaluation to help determine whether or not the licensee is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed on the licensee based on the application of the following criteria:

License type, licensee's history, documented length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse problem, and whether the licensee is a threat to himself or herself or others.

When determining if the licensee should be required to participate in inpatient, outpatient or any other type of treatment, the Board shall take into consideration the recommendation of the clinical diagnostic evaluation, license type, licensee's history, length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse and whether the licensee is a threat to himself or herself or others.

## **FACILITATED GROUP SUPPORT MEETINGS**

If a board requires a licensee to participate in facilitated group support meetings, the following shall apply:

When determining the frequency of required facilitated group meeting attendance, the board shall give consideration to the following:

- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use;
- the recommendation of the clinical evaluator;
- the scope and pattern of use;
- the licensee's treatment history; and,
- the nature, duration, and severity of substance abuse.

### **Group Meeting Facilitator Qualifications and Requirements:**

1. The meeting facilitator must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse and shall be licensed or certified by the state or other nationally certified organization.
2. The meeting facilitator must not have a financial relationship, personal relationship, or business relationship with the licensee in the last five (5) years.
3. The group meeting facilitator shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.
4. The facilitator shall report any unexcused absence within 24 hours.

## **WORK SITE MONITOR REQUIREMENTS:**

If a Board determines that a worksite monitor is necessary for a particular licensee, the worksite monitor must meet the following requirements to be considered for approval by the Board:

The worksite monitor shall not have a current or former financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the Board; however, under no circumstances shall a licensee's worksite monitor be an employee or supervisee of the licensee.

The worksite monitor's license scope of practice shall include the scope of practice of the licensee who is being monitored or be another health care professional if no monitor with like scope of practice is available.

The worksite monitor shall have an active unrestricted license, with no disciplinary action within the last five (5) years.

The worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and agrees to monitor the licensee as set forth by the Board.

The worksite monitor must adhere to the following required methods of monitoring the licensee:

- a) Have face-to-face contact with the licensee in the work environment on as frequent a basis as determined by the Board, but at least once per week.
- b) Interview other staff in the office regarding the licensee's behavior, if applicable.
- c) Review the licensee's work attendance.

Reporting by the worksite monitor to the Board shall be as follows:

Any suspected substance abuse must be orally reported to the Board and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the Board's normal business hours, the oral report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include: the licensee's name; license number; worksite monitor's name and signature; worksite monitor's license number; worksite location(s); dates licensee had face-to-face contact with monitor; worksite staff interviewed, if applicable; attendance report; any change in behavior and/or personal habits; any indicators of substance abuse.

The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the Board to allow the Board to communicate with the worksite monitor.

### **Major and Minor Violations**

If a licensee commits a major violation, the Board shall order the licensee immediately to cease any practice of occupational therapy, immediately contact the licensee to inform him or her that he or she has been ordered to cease practice and that he or she may not practice unless notified by the Board, and refer the matter for disciplinary action or other action as determined by the Board.

Major Violations include, but are not limited to, the following:

1. Failure to complete a board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Committing multiple minor violations of probation conditions and terms;
4. Treating a patient while under the influence of drugs or alcohol;
5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code, or other state or federal law;
6. Failure to obtain biological testing for substance abuse when ordered;
7. Testing positive for a banned substance;
8. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

If a licensee commits a minor violation, the Board shall determine what action is appropriate.

Minor Violations include, but are not limited to, the following:

1. Failure to submit required documentation in a timely manner;
2. Unexcused attendance at required meetings;
3. Failure to contact a monitor as required;
4. Any other violations that do not present an immediate threat to the licensee or to the public.

## **DRUG TESTING STANDARDS**

If a licensee tests positive for a banned substance, the Board shall order that the licensee immediately cease any practice of occupational therapy, and immediately contact the licensee to inform him or her that he or she has been ordered to cease practice and that he or she may not practice until the Board determines that he or she is able to safely practice. The Board shall also immediately notify the licensee's employer that the licensee has been ordered to cease practice, and that he or she may not practice until the Board determines that he or she is able to safely practice.

The following drug testing standards shall apply to each licensee subject to drug testing:

1. Licensees shall be randomly drug tested at least 104 times per year for the first year or probation, and at any time as directed by the board. After the first year, licensees who are practicing, shall be randomly drug tested at least 50 times per year, and at any time as directed by the board.
2. Drug testing may be required on any day, including weekends and holidays.
3. Except as directed, the scheduling of drug tests shall be done on a random basis, preferably by a computer program.
4. Licensees shall be required to make daily contact as directed to determine if drug testing is required.
5. Licensees shall be drug tested on the date of notification as directed by the board.
6. Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation.
7. Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.
8. Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.
9. Collection of specimens shall be observed.
10. Prior to vacation or absence, alternative drug testing location(s) must be approved by the board.
11. Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test



results within seven (7) days of receipt of the specimen. The Board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.

## **DISCIPLINARY GUIDELINES**

### ***I. INTRODUCTION***

To establish consistency in disciplinary penalties for similar offenses on a statewide basis, the California Board of Occupational Therapy (Board) has adopted these uniform disciplinary guidelines for particular violations. This document, designed for use by attorney<sup>2</sup>s, administrative law judges, occupational therapists, occupational therapy assistants, others involved in the disciplinary process, and ultimately the Board, may be revised from time to time and shall be distributed to interested parties upon request.

These guidelines include general factors to be considered, probationary terms, and guidelines for specific offenses. The guidelines for specific offenses reference the applicable statutory and regulatory provision(s).

For purposes of this document, the term “license” includes the occupational therapy license and the occupational therapy assistant certificate. The terms and conditions of probation are divided into two general categories:

- (1) Standard Conditions are those conditions of probation which will generally appear in all cases involving probation as a standard term and condition; and
- (2) Optional Conditions are those conditions which address the specific circumstances of the case and require discretion to be exercised depending on the nature and circumstances of a particular case.

Except as provided in the Uniform Standards Related to Substance Abuse, the Board recognizes that these recommended penalties and conditions of probation are merely guidelines and that mitigating or aggravating circumstances and other factors may necessitate deviations, as discussed herein. If there are deviations from the guidelines, the Board requests that the Administrative Law Judge hearing the matter include an explanation in the Proposed Decision so that the circumstances can be better understood and evaluated by the Board upon review of the Proposed Decision and before final action is taken.

### ***II. GENERAL CONSIDERATIONS***

The Board requests that Proposed Decisions following administrative hearings include the following:

- a. Specific code sections violated with their definitions.
- b. Clear description of the violation.
- c. Respondent’s explanation of the violation if he/she is present at the hearing.
- d. Findings regarding aggravation, mitigation, and rehabilitation where appropriate.
- e. When suspension or probation is ordered, the Board requests that the disciplinary order include terms within the recommended guidelines for that offense unless the reason for departure from the recommended terms is clearly set forth in the findings and supported by the evidence.

Factors to be Considered - In determining whether revocation, suspension or probation is to be imposed in a given case, factors such as the following should be considered:

1. Nature and severity of the act(s), offense(s), or crime(s) under consideration.
2. Actual or potential harm to any consumer, client or the general public.
3. Prior disciplinary record.
4. Number and/or variety of current violations.
5. Mitigation evidence.
6. Rehabilitation evidence.
7. In the case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.
8. Overall criminal record.
9. Time passed since the act(s) or offense(s) occurred.
10. Whether or not the respondent cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
11. Recognition by respondent of his or her wrongdoing and demonstration of corrective action to prevent recurrence.

### ***III. DEFINITION OF PENALTIES***

*Revocation:* Loss of a license as the result of any one (1) or more violations of the Occupational Therapy Practice Act. Revocation of a license is permanent, unless the respondent takes affirmative action to petition the Board for reinstatement of his/her license and demonstrates to the Board's satisfaction that he/she is rehabilitated.

*Suspension:* Invalidation of a license for a fixed period of time, not to exceed one (1) year.

*Stayed Revocation:* Revocation of a license, held in abeyance pending respondent's compliance with the terms of his/her probation.

*Stayed Suspension:* Suspension of a license, held in abeyance pending respondent's compliance with the terms of his/her probation.

*Probation:* A period during which a respondent's discipline is stayed in exchange for respondent's compliance with specified conditions relating to improving his/her conduct or preventing the likelihood of a recurrence of the violation.

### ***IV. DISCIPLINARY GUIDELINES***

The offenses are listed by statute number in the Business and Professions Code. The standard terms of probation as stated herein shall be included for all probations. The optional conditions of probation as stated herein are to be considered and imposed along with any other optional conditions if facts and circumstances warrant. The number(s) in brackets listed after each condition of probation refers to the conditions listed on pages 15-24.

BUSINESS AND PROFESSIONS CODE SECTIONS – Occupational Therapy Practice Act

**Section 2570.23:** **Violation of 2570.3 - Unlicensed Person Engaging in Practice - Sanctions**

Applicant Maximum: Denial of application for a license  
Applicant Minimum: Thirty (30) days actual suspension and three (3) years probation on the following conditions:  
a. Standard conditions [#1-#13]  
b. Optional conditions [#26 and #30]

**Section 2570.28(a)(1),(2),or(3):** **Unprofessional Conduct – Incompetence, Gross Negligence, Repeated Negligent Acts, Conviction of Practicing Medicine**

Maximum: Revocation  
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:  
a. Standard conditions [#1- #13]  
b. Optional conditions [#23, #25, #26, #28, #30]

**Section 2570.28(a)(4):** **Unprofessional Conduct – False Advertising**

Maximum: Revocation  
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:  
a. Standard conditions [#1-#13]  
b. Optional conditions [#26 and #30]

**Section 2570.28(a)(5):** **Unprofessional Conduct – Discipline by Other Government Agency**

Maximum: Revocation  
Minimum: Stayed revocation and three (3) years probation on the following conditions:  
a. Standard conditions [#1-#13]

**Section 2570.28(b):** **Procuring a License by Fraud, Misrepresentation, Mistake**

Maximum: Revocation  
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:  
a. Standard conditions [#1-#13]  
b. Optional conditions [#23, #26, #28]

<b>Section 2570.28(c):</b>	<b>Violating Any Provision of the Occupational Therapy Practice Act or Regulations</b>
Maximum:	Revocation
Minimum:	Stayed revocation and three (3) years probation on the following conditions: a. Standard conditions [#1-#13]
<b>Section 2570.28(d):</b>	<b>False Statement on Application for License or Renewal</b>
Maximum:	Revocation
Minimum:	Stayed revocation, thirty (30) days suspension and three (3) years probation on the following conditions: a. Standard conditions [#1-#13] b. Optional conditions [#26 and #30]
<b>Section 2570.28(e):</b>	<b>Conviction of Crime Substantially Related to License</b>
Maximum:	Revocation
Minimum:	Stayed revocation and three (3) years probation on the following conditions: a. Standard conditions [#1-#13] b. Optional conditions [#26, #27, #28, #30]
<b>Section 2570.28(f) or (g):</b>	<b>Impersonating an Applicant or Acting as Proxy for Another in an Examination for Licensure, Impersonating a Licensee or Allowing Another Person to Use License</b>
Maximum:	Revocation
Minimum:	Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions: a. Standard conditions [#1-#13] b. Optional conditions [#26 and #30]
<b>Section 2570.28(h):</b>	<b>Committing Fraud, Dishonest or Corrupt Act</b>
Maximum:	Revocation
Minimum:	Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions: a. Standard conditions [#1-#13] b. Optional conditions [#26 and #30]

**Section 2570.28(i): Committing Any Act Punishable as Sexually Related Crime**

Maximum: Revocation  
Minimum: Stayed revocation, ninety (90) days actual suspension and five (5) years probation on the following conditions:  
a. Standard conditions [#1-#13]  
b. Optional Conditions [#15, #16, #24, #26, #30]

**Section 2570.28(j): Using Excessive Force, Mistreating or Abusing Patient**

Maximum: Revocation  
Minimum: Stayed revocation, ninety (90) days actual suspension and five (5) years probation on the following conditions:  
a. Standard conditions [#1-#13]  
b. Optional conditions [#15, #16, #25, #26, 30]

**Section 2570.28(k): Falsifying, Making Grossly Incorrect, Inconsistent, or Unintelligible Entries in Patient/Hospital Record**

Maximum: Revocation  
Minimum: Stayed revocation and three (3) years probation on the following conditions:  
a. Standard conditions [#1-#13]

**Section 2570.28(l): Changing the Prescription of Physician or Falsifying Verbal or Written Orders**

Maximum: Revocation  
Minimum: Stayed revocation and three (3) years probation on the following conditions:  
a. Standard conditions [#1-#13]

**Section 2570.28(m): Failing to Maintain Patient Confidentiality**

Maximum: Revocation  
Minimum: Stayed revocation and three (3) years probation on the following conditions:  
a. Standard conditions [#1-#13]

**Section 2570.28(n): Delegating Services that Require License to Unlicensed Person**

Maximum: Revocation  
Minimum: Stayed revocation and three (3) years probation on the following conditions:  
a. Standard conditions [#1-#13]

<b>Section 2570.28(o):</b>	<b>Committing Act that would be Grounds for Denial under Section 480</b>
Maximum:	Revocation
Minimum:	Stayed revocation and three (3) years probation on the following conditions: a. Standard conditions [#1-#13]
<b>Section 2570.28(p):</b>	<b>Failing to Follow Infection Control Guidelines</b>
Maximum:	Revocation
Minimum:	Stayed revocation and one (1) year probation on the following conditions: a. Standard conditions [#1-#13]
<b>Section 2570.29(a):</b>	<b>Obtain, Possess, Administer to Self, Furnish or Administer to Others, Controlled Substance</b>
Maximum:	Revocation
Minimum:	Stayed revocation and three (3) years probation on the following conditions: a. Standard conditions [#1-#13] b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #31]
<b>Section 2570.29(b)(1)(2) or (3):</b>	<b>Use Controlled Substance, Dangerous Drug, Alcohol in Manner Dangerous, Injurious to Self or Others</b>
Maximum:	Revocation
Minimum:	Stayed revocation and three (3) years probation on the following conditions: a. Standard conditions [#1-#13] b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #31]
<b>Section 2570.29(c):</b>	<b>Conviction of Crime Involving Controlled Substance, Dangerous Drug, Alcohol or Falsifying a Record Involving Same</b>
Maximum:	Revocation
Minimum:	Stayed revocation and three (3) years probation on the following conditions: a. Standard conditions [#1-#13] b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #28, #31]

**Section 2570.29(d):** **Committed or Confined by Court for Intemperate Use of Controlled Substance, Dangerous Drug, Alcohol**

Maximum: Revocation  
Minimum: Stayed revocation and three (3) years probation on the following conditions:  
a. Standard conditions [#1-#13]  
b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #28, #31]

**Section 2570.29(e):** **Falsify, Make Grossly Incorrect, Inconsistent, or Unintelligible Entries in Hospital/Patient Record involving Controlled Substance or Dangerous Drug**

Maximum: Revocation  
Minimum: Stayed revocation and three (3) years probation on the following conditions:  
a. Standard conditions [#1-#13]  
b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #31]

*GENERAL PROVISIONS OF BUSINESS AND PROFESSIONS CODE*

**Section 119:** **Misdemeanor Pertaining to Use of a License**

Maximum: Revocation  
Minimum: Stayed revocation and one (1) year probation on the following conditions:  
a. Standard conditions [#1-#13]

**Section 125:** **Misdemeanor Pertaining to Conspiring with Unlicensed Person for Use of a License**

Maximum: Revocation  
Minimum: Stayed revocation and one (1) year probation on the following conditions:  
a. Standard conditions [#1-#13]

**Section 125.6:** **Discrimination by Licensee**

Maximum: Revocation  
Minimum: Stayed revocation and one (1) year probation on the following conditions:  
a. Standard conditions [#1-#13]

**Section 480 (a): Denial of Licenses**  
Maximum/Minimum: Denial of license

**Section 480(c): Denial of Licenses**  
Maximum/Minimum: Denial of license

**Section 496: Subversion of Licensing Examinations or Administration of Examinations.**

Maximum: Denial or revocation of license  
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:  
a. Standard conditions [#1-#13]  
b. Optional conditions [#23, #26, #30]

**Section 726: Sexual Abuse, Misconduct, or Relations with a Patient or Client**

Maximum: Revocation  
Minimum: Stayed revocation and one (1) year probation on the following conditions:  
a. Standard conditions [#1-#13]  
b. Optional conditions [#25, #26, #30]

**Section 730: Performing Medical Evaluation Without Certification**

Maximum: Revocation  
Minimum: Stayed revocation and one (1) year probation on the following conditions:  
a. Standard conditions [#1-#13]

**Section 810: Fraudulent Claims**

Maximum: Revocation  
Minimum: Stayed revocation and one (1) year probation on the following conditions:  
a. Standard conditions [#1-#13]  
b. Optional conditions [#26, #27, #30]



***V. STANDARD CONDITIONS OF PROBATION***  
**(to be included in all cases of probation)**

**1. Obey All Laws**

Respondent shall obey all federal, state and local laws and regulations governing the practice of occupational therapy in California. Respondent shall submit, in writing, a full detailed account of any and all violations of the law to the Board within five (5) days of occurrence.

**2. Compliance with Probation and Quarterly Reporting**

Respondent shall fully comply with the terms and conditions of probation established by the Board and shall cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with probation. Respondent, within ten (10) days of completion of the quarter, shall submit quarterly written reports to the Board on a form obtained from the Board (Quarterly Written Report, rev. 4/2011).

**3. Personal Appearances**

Upon reasonable notice by the Board, respondent shall report to and make personal appearances at times and locations as the Board may direct.

**4. Notification of Address and Telephone Number Change(s)**

Respondent shall notify the Board, in writing, within five (5) days of a change of residence or mailing address, of his/her new address and any change in work and/or home telephone numbers.

**5. Tolling for Out-of-State Practice, Residence or Extension of Probation for In-State Non-Practice**

In the event respondent should leave California to reside or to practice outside the State for more than thirty (30) days, respondent shall notify the Board or its designee in writing within five (5) days of the dates of departure and return. All provisions of probation other than the quarterly report requirements, examination requirements, and education requirements, shall be held in abeyance until respondent resumes practice in California. All provisions of probation shall recommence on the effective date of resumption of practice in California, and the period of probation shall be extended for the period of time respondent was out of state.

Unless by Board order, in the event respondent is not engaging in the practice of occupational therapy while residing in California, respondent shall notify the Board or its designee in writing within five (5) days of the dates of cessation of practice and expected return to practice. All provisions of probation shall remain in effect, and the period of probation shall be extended for the period of time respondent was not engaged in the practice of occupational therapy as required by other employment requirement of this order.

**6. Notification to Employer(s)**

When currently employed, applying for employment in any capacity, or contracted to provide occupational therapy services. Respondent shall provide a copy of the Board's Decision to each employer, supervisor, or contractor no later than the effective date of the Decision. Respondent shall notify any prospective employer, supervisor, or contractor of his/her probationary status with the Board prior to accepting such employment. This notification shall include a copy of the Board's Accusation, Statement of Issues, Stipulated Settlement, or Disciplinary Decision (whichever applies).

The respondent shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of all employers, supervisors and contractors and shall inform the Board in writing of the facility or facilities at which the person is providing occupational therapy services and the name(s) of the person(s) to whom the Board's decision was provided.

Respondent shall complete the required consent forms and sign an agreement with the employer and supervisor, or contractor, and the Board, to allow the Board to communicate with the employer and supervisor or contractor regarding issues including but not limited to the licensee's work status, attendance, performance, and on-going monitoring.

Respondent shall cause each employer and supervisor or contractor to submit quarterly reports to the Board. The report shall be on a form provided by the Board, and shall include a performance evaluation and such other information as may be required by the Board (Work Performance Evaluation, rev. 02/2011).

Respondent shall notify the Board, in writing, within five (5) days of any change in employment status. Respondent shall notify the Board, in writing, within five (5) days if he/she is terminated from any occupational therapy or health care related employment with a full explanation of the circumstances surrounding the termination.

#### **7. Employment Requirements and Limitations**

During probation, respondent shall work in his/her licensed capacity in the State of California. This practice shall consist of no less than six (6) continuous months and of no less than twenty (20) hours per week.

While on probation, respondent shall not work for a registry or in any private duty position, except as approved, in writing, by the Board. Respondent shall work only on a regularly assigned, identified, and pre-determined work site(s) and shall not work in a float capacity except as approved, in writing, by the Board.

During probation, Respondent shall work in his or her capacity in the State of California. If respondent is unable to secure employment in his or her capacity, or his or her license is temporarily suspended, the period of probation shall be extended for that period of time.

#### **8. Supervision Requirements**

Respondent shall obtain approval from the Board when continuing or before commencing any employment, regarding the level of supervision provided to the respondent while employed as an occupational therapist or occupational therapy assistant.

Respondent shall not function as a supervisor during the period of probation except as approved, in writing, by the Board.

#### **9. Continuing Education Requirements**

Respondent shall complete continuing education directly relevant to the violation as specified by the Board. Continuing education shall be completed within a period of time designated by the Board, which timeframe shall be incorporated as a condition of this probation.

Continuing education shall be in addition to the professional development activities required for license renewal. The Board shall notify respondent of the course content and number of contact hours required. Within thirty (30) days of the Board's written notification of the assigned coursework, respondent shall submit a written plan to comply with this requirement. The Board shall approve such plan prior to enrollment in any course of study.

Failure to satisfactorily complete the required continuing education as designated or failure to complete same no later than one year from the date of the Board's written notification shall constitute a violation of probation. Respondent is responsible for all costs of such continuing education. Upon successful completion of the course(s), respondent shall cause the instructor to furnish proof to the Board within thirty (30) days of course completion.

**10. Maintenance of Valid License**

Respondent shall, at all times while on probation, maintain an active current license with the Board including any period during which license is suspended or probation is tolled.

**11. Cost Recovery Requirements**

Where an order for recovery of costs is made, respondent shall make timely payment as directed in the Board's Decision pursuant to Business and Professions Code section 125.3. Failure to make payments in accordance with any formal agreement entered into with the Board or pursuant to any Decision by the Board shall be considered a violation of probation.

The Board may conditionally renew or reinstate, for a maximum of one (1) year, the license of any respondent who demonstrates financial hardship. Respondent shall enter into a formal agreement with the Board to reimburse the unpaid costs within that one (1) year period.

Except as provided above, the Board shall not renew or reinstate the license of any respondent who has failed to pay all the costs as directed in a Decision.

**12. Violation of Probation**

If respondent violates probation in any respect, the Board, after giving respondent notice and opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If an accusation or a petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended, and respondent shall comply with all probation conditions, until the matter is final.

**13. Completion of Probation**

Upon successful completion of probation, respondent's license will be fully restored.

## **VI. OPTIONAL CONDITIONS OF PROBATION**

### **14. Examination by a Physician**

Within sixty (60) days of the effective date of the Decision, respondent shall submit to a physical examination by a physician and surgeon of his/her choice who meets minimum criteria established by the Board. The physician and surgeon shall be licensed in California and Medical Board Certified in Family Practice, Internal Medicine or a related specialty. The purpose of the examination shall be to determine respondent's ability to safely perform all professional duties with safety to self and to the public. Respondent shall provide the examining physician and surgeon with a copy of the Board's Disciplinary Order prior to the examination. Cost of such examination shall be paid by respondent.

Respondent shall cause the physician and surgeon to complete a written medical report to be submitted directly to the Board within ninety (90) days of the effective date of the Decision. If the examining physician and surgeon finds that respondent is not physically fit to practice safely or can only practice safely with restrictions the physician shall notify the Board, in writing, within five (5) working days. The Board shall notify respondent in writing of the physician's and surgeon's determination of unfitness to practice and shall order the respondent to cease practice or place restrictions on respondent's practice. Respondent shall comply with any order to cease practice or restriction of his or her practice until the Board is satisfied of respondent's fitness to practice safely and has so notified respondent in writing.

### **15. Psychological Evaluation**

Within sixty (60) days of the effective date of the Decision, respondent shall submit to a psychiatric/ or psychological evaluation. Within twenty (20) days of the effective date of the Decision, Respondent shall submit to the Board the name of one or more proposed evaluators for prior approval by the Board to conduct a psychiatric or psychological evaluation. The evaluation shall be performed by a physician and surgeon licensed in California and Board Certified in Psychiatry, or by a clinical psychologist licensed in California. This evaluation shall be for the purpose of determining respondent's current mental, psychological and emotional fitness to safely perform all professional duties with safety to self and the public. Respondent shall provide the evaluator with a copy of the Board's Disciplinary Order prior to the evaluation. Cost of such evaluation shall be paid by respondent.

Respondent shall cause the evaluator to submit to the Board a written psychological report concerning respondent's status and progress as well as such other information as may be requested by the Board. This report shall be submitted within ninety (90) days from the effective date of the Decision.

If the evaluator finds that respondent is not psychologically fit to practice safely or can only practice safely with restrictions, the evaluator shall orally notify the Board within one (1) working day, and then notify the Board, in writing, within five (5) working days. The Board shall notify the respondent in writing of the evaluator's determination of unfitness to practice and shall order the respondent to cease practice or place restrictions on respondent's practice. Respondent shall comply with any order to cease practice or restriction of his or her practice until the Board is satisfied of respondent's fitness to practice safely and has so notified respondent in writing.

If the evaluator finds that psychotherapy is required, respondent shall participate in a therapeutic program at the Board's discretion. Cost of such therapy shall be paid by respondent.

## **16. Psychotherapy**

Within sixty (60) days of the effective date of the Decision, respondent shall submit to the Board the name of one (1) or more proposed therapists for prior approval. Respondent shall participate in ongoing psychotherapy with a California licensed or legally registered mental health professional approved by the Board. Within ten (10) days of receiving notification of approval by the Board, Respondent shall commence psychotherapy. Respondent shall provide the therapist with a copy of the Board's Disciplinary Order no later than the first counseling session. Counseling shall be at least once a week unless otherwise determined by the Board. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy shall be paid by respondent.

Respondent shall cause the therapist to submit to the Board a written report concerning respondent's psychotherapy status and progress as well as such other information as may be requested by the Board. The initial psychotherapy report shall be submitted within ninety (90) days from the effective date of the Decision. Respondent shall cause the therapist to submit quarterly written reports to the Board concerning respondent's fitness to practice, progress in treatment and to provide such other information as may be required by the Board.

If the therapist finds that respondent is not fit to practice safely, or can only practice safely with restrictions, the therapist shall notify the Board, in writing, within five (5) working days. The Board shall notify respondent in writing of the therapist's determination of unfitness to practice and shall order the respondent to cease practice or place restrictions on respondent's practice. Respondent shall comply with any order to cease practice or restriction of his or her practice until the Board is satisfied of respondent's fitness to practice safely and has so notified respondent in writing.

## **17. Clinical Diagnostic Evaluation**

Within twenty (20) days of the effective date of the Decision and at any time upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed.

Respondent shall cause the evaluator to submit to the Board a written clinical diagnostic evaluation report within ten (10) days from the date the evaluation was completed, unless an extension, not to exceed thirty (30) days, is granted to the evaluator by the Board. Cost of such evaluation shall be paid by the Respondent.

Respondent is ordered to cease any practice of occupational therapy, beginning on the effective date of the Decision, pending the results of the clinical diagnostic evaluation. During this time, Respondent shall submit to random drug testing at least two (2) times per week. At any other time that Respondent is ordered to undergo a clinical diagnostic evaluation, he or she shall be ordered to cease any practice of occupational therapy for minimum of one month pending the results of a clinical diagnostic evaluation and shall, during such time, submit to drug testing at least two (2) times per week.

Upon any order to cease practice, Respondent shall not practice occupational therapy until the Board determines that he or she is able to safely practice either full-time or part-time and has had at least one-month of negative drug test results. Respondent shall comply with any terms or conditions made by the Board as a result of the clinical diagnostic evaluation.

## **18. Rehabilitation Program**

Within thirty (30) days of the effective date of the Decision, respondent shall enter a rehabilitation and monitoring program specified by the Board. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board.

Components of the treatment contract shall be relevant to the violation and to the respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work settings, random bodily fluid or other matter testing, abstention from drugs and alcohol, use of work site monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations and other appropriate rehabilitation or monitoring programs. Cost for participation in this program shall be paid by respondent.

## **19. Support Groups**

### **19a. Chemical Dependency Support/Recovery Groups**

Within five (5) days of the effective date of the Decision, respondent shall begin attendance at a chemical dependency support group (e.g., Alcoholics Anonymous, Narcotics Anonymous), and continue as ordered by the Board or its designee. Verified documentation of attendance shall be submitted by respondent with each quarterly report. Respondent shall continue attendance in such a group for the duration of probation unless notified by the Board that attendance is no longer required.

When determining the frequency of required support group meeting attendance, the board shall give consideration to the following:

- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use;
- the recommendation of the clinical evaluator;
- the scope and pattern of use;
- the licensee's treatment history; and,
- the nature, duration, and severity of substance abuse.

### **19b. Facilitated Support Group Meetings**

Within thirty (30) days of the effective date of the Decision, respondent shall begin attendance at a facilitated support group, and continue as ordered by the Board or its designee. Verified documentation of attendance shall be submitted by respondent with each quarterly report. Respondent shall continue attendance in such a group for the duration of probation unless notified by the Board that attendance is no longer required.

When determining the frequency of required support group meeting attendance, the board shall give consideration to the following:

- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use;
- the recommendation of the clinical evaluator;
- the scope and pattern of use;
- the licensee's treatment history; and,
- the nature, duration, and severity of substance abuse.

#### Group Meeting Facilitator Qualifications and Requirements:

1. The meeting facilitator must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse and shall be licensed or certified by the state or other nationally certified organization.
2. The meeting facilitator must not have a financial relationship, personal relationship, or business relationship with the licensee in the last five (5) years.
3. The group meeting facilitator shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.
4. The facilitator shall report any unexcused absence within 24 hours.

#### **19c. Group Support/Recovery Meetings**

Respondent shall begin and continue attendance at a support/recovery group (e.g., Alcoholics Anonymous, Narcotics Anonymous, or a facilitated group) as ordered by the Board or its designee. When determining the type and frequency of required support group meeting attendance, the board shall give consideration to the following:

- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use;
- the recommendation of the clinical evaluator;
- the scope and pattern of use;
- the licensee's treatment history; and,
- the nature, duration, and severity of substance abuse.

Verified documentation of attendance shall be submitted by respondent with each quarterly report. Respondent shall continue attendance in such a group for the duration of probation unless notified by the Board that attendance is no longer required.

If a facilitated group meeting is ordered, the group facilitator shall meet the following qualifications and requirements:

- a. The meeting facilitator must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse and shall be licensed or certified by the state or other nationally certified organization.
- b. The meeting facilitator must not have a financial relationship, personal relationship, or business relationship with the licensee in the last five (5) years.
- c. The group meeting facilitator shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.
- d. The facilitator shall report any unexcused absence within 24 hours.

**NOTE TO ALJ:** *Condition 19c is not necessary if 19a or 19b is ordered.*

#### **20. Abstain from Controlled Substances**

Respondent shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in sections 4021 and 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bona fide illness or condition. If under such prescription, Respondent shall cause to have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report

identifying the medication, dosage, the date the medication was prescribed, the Respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

**21. Abstain from use of Alcohol**

Respondent shall completely abstain from the intake of alcohol during the period of probation.

**22. Submit Biological Fluid or Specimen Samples**

Respondent shall immediately submit to random and directed alcohol and/or drug testing, at respondent's cost, upon request by the Board or its designee. The Respondent shall be subject to a minimum of one-hundred and four (104) random tests per year within the first year of probation, and a minimum of fifty (50) random tests per year thereafter, for the duration of the probationary term. If Respondent tests positive for a banned substance, Respondent shall be ordered by the Board to immediately cease any practice of occupational therapy, and may not practice unless and until notified by the Board. Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit to his or her drug test on the same day that he or she is notified that a test is required. All alternative testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

**23. Take and Pass the Licensure Examination**

Respondent shall take and pass the licensure examination currently required of new applicants for the license possessed by respondent. Respondent shall pay the established examination fees.

As a condition precedent to reinstatement of a license, respondent shall take and pass the licensure examination currently required of new applicants prior to resuming practice. Respondent shall pay the established examination and licensing fees.

All standard terms or other terms of probation shall be tolled until the respondent has successfully passed the licensure examination and notice of licensure has been mailed to respondent by the Board.

**24. Worksite Monitor**

Respondent shall submit the name of the proposed worksite monitor within 20 days of the effective date of the Decision. Respondent shall complete any required consent forms and sign an agreement with the worksite monitor and the Board regarding the Respondent and the worksite monitor's requirements and reporting responsibilities. Once a worksite monitor is approved, Respondent may not practice unless the monitor is present at the worksite. If the worksite monitor terminates the agreement with the Board and the Respondent, the Respondent shall not resume practice until another worksite monitor is approved by the Board.

Reporting by the worksite monitor to the board shall be as follows:

Any suspected substance abuse must be orally reported to the Board and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the Board's normal business hours, the oral report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include: the licensee's name; license number; worksite monitor's name and signature;



worksite monitor's license number; worksite location(s); dates licensee had face-to-face contact with monitor; worksite staff interviewed, if applicable; attendance report; any change in behavior and/or personal habits; any indicators of substance abuse.

The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the Board to allow the Board to communicate with the worksite monitor.

### **25. Restriction on Licensed Practice**

Respondent shall practice only with a specified client population, in a specified practice setting, or engage in limited occupational therapy services. These restrictions shall be specifically defined in the Decision and be appropriate to the violation. Respondent shall be required to document compliance in a manner required by the Board.

### **26. Suspension**

Respondent is suspended from the practice of occupational therapy for \_\_\_\_\_ days beginning on the effective date of the Decision. Respondent shall be responsible for informing his or her employer of the Board's decision and the reasons for the length of suspension.

### **27. Restitution**

Within \_\_\_\_\_ days of the effective date of this Decision, respondent shall make restitution to \_\_\_\_\_ in the amount of \$\_\_\_\_\_ and shall provide the Board with proof from \_\_\_\_\_ attesting that the full restitution has been paid. In all cases, restitution shall be made before the termination of probation.

### **28. Criminal Probation Reports**

Respondent shall provide the Board with a copy of the standard conditions of the criminal probation, copies of all criminal probation reports and the name of his/her probation officer.

### **29. Relinquish License and Wall Certificate**

Respondent shall relinquish and shall forward or deliver the license to practice and the wall certificate to the Board within ten (10) days of the effective date of the Decision and order.

### **30. Notification to Clients/Cessation of Practice**

In orders that provide for a cessation or suspension of practice, respondent shall comply with procedures provided by the Board regarding notification to, and management of, clients.

### **31. Request for Modification**

"Request" as used in this standard is a request made to the Board's designee, and is not under the Administrative Procedure Act.

The licensee shall demonstrate that he or she has met the following criteria before being granted a request to modify a practice restriction ordered by the Board:

- a. Demonstrated sustained compliance with current recovery program.
- b. Demonstrated the ability to practice safely as evidenced by current work site reports, evaluations, and any other information relating to the licensee's substance abuse.
- c. Negative alcohol and drug screening reports for at least six (6) months, two (2) positive worksite monitor reports, and complete compliance with other terms and conditions of the program.

## ***VII. REHABILITATION CRITERIA***

When considering the denial of an occupational therapy practitioner license under section 480 of the Business and Professions Code, the Board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a license will consider the following criteria:

- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial, which also could be considered as grounds for denial under section 480 of the Business and Professions Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
- (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
- (5) Evidence, if any, of rehabilitation submitted by the applicant.

When considering the suspension or revocation of the license of an occupational therapy practitioner on the grounds that the person licensed has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his/her present eligibility for a license, shall consider the following criteria:

- (1) The nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) The extent to which the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.

## ***VIII. PETITION FOR REINSTATEMENT/REDUCTION IN PENALTY***

When considering a petition for reinstatement of the license or a petition for reduction in penalty, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria specified in section VII. above.

**RECOMMENDED LANGUAGE FOR ISSUANCE AND PLACEMENT OF A LICENSE ON  
PROBATION AND REINSTATEMENT OF LICENSE** [Reserved]

**AGENDA ITEM G**

# Frequently Asked Question - Serving as an Expert Witness

## Why does the Board need an expert opinion?

In cases where the Board files charges alleging that an OT or OTA was negligent or incompetent in providing services, an expert is required to establish the acts deviated from the standards of practice for the profession.

## Can you define this role more?

An expert consultant/witness is a person who has special knowledge, skill or experience and who has scientific, technical, or other specialized knowledge that assists the Board by:

- Determining whether there has been a deviation from standard practice
- Determining whether unprofessional conduct has occurred
- Assisting with the understanding of evidence presented.

## Can you give me some examples or circumstances that the Board may utilize an Expert?

An expert may be needed when the Board initially receives a complaint. The allegations in the complaint would be reviewed by the expert to make an initial determination as to whether the conduct alleged, if proven, would constitute unprofessional conduct, negligence, or incompetence. The purpose of this evaluation would be to give Board staff guidance. This evaluation would have no value as evidence.

An expert may be asked to assist an Investigator (sworn peace officer) as part of the investigation to review medical records or assist in preparing questions or participating in interviews with the complainant, health care administrators, witnesses, and the subject the investigation.

In most cases an expert is needed after an investigation has been completed and evidence has been gathered. The expert will be asked to review the investigation report and render a written opinion on whether the subject deviated from the standards of the profession.

## What are the qualifications for someone to serve as an Expert?

- 10 years of experience as an Occupational Therapist or Occupational Therapy Assistant.
- Possess a current and active license issued by the Board without any restrictions.
- No current or prior discipline taken in California or any other state or jurisdiction regarding any health related occupation.
- No criminal convictions or expunged convictions.

You can review and download an application for "Expert Witness from the Board web site at:  
[http://www.bot.ca.gov/licensees/expert\\_witness.shtml](http://www.bot.ca.gov/licensees/expert_witness.shtml)

## Can I be sued/held liable for providing an expert opinion?

No. Civil Code section 43.8 provides immunity from civil liability for an expert consultant or expert witness acting within the scope of their duties in evaluating and testifying in cases for the Board. Further, Business and Professions Code section 154.5 requires the Board to provide representation (legal assistance) for an expert consultant or expert witness that is named as a defendant in a civil action based on expertise provided to the Board or its representatives.

### **What is the likelihood that I'll be required to testify in an administrative hearing?**

If the case is submitted for formal disciplinary action and no stipulated agreement is reached before the administrative hearing, you will be called to provide expert testimony at the hearing. Current Board statistics reflect that it is more likely that a stipulated agreement will be reached. However, prudence would dictate that you be prepared to testify in the event a stipulated settlement cannot be reached. If you are required to testify, it is standard operating procedure for the Deputy Attorney General that is assigned to the case to issue you a subpoena and schedule a conference to review your opinion prior to the hearing.

### **How much do Expert Witnesses get paid for their services?**

Experts get compensated \$75 per hour for the review and writing of their report/opinion. The current compensation rate for testifying a hearing is \$120 an hour. If travel is required, airfare, lodging, meals, and other related travel costs will be purchased for you or reimbursed in a manner that is consistent with state travel guidelines.

### **Can I decline an assignment?**

Yes. When you are contacted by a Board representative you will be asked if you can devote time to review and prepare a written opinion/report. You will also be asked if you know the OT or OTA who is the subject of the complaint and if you have knowledge of the events or circumstances surrounding the investigation.

### **Would I be required to render a written opinion and/or testify against a friend of mine?**

No. In the initial contact phase with Board staff for potential assignment of a case you would be obligated to disclose this information. If an expert has prior knowledge of the OT or OTA who is the subject of the complaint, or cannot be objective in assessing the case, for any reason, the expert must decline the assignment.

### **Are there any particular desirable qualities or skills that are needed to perform as an expert?**

Better than average knowledge of the Practice Act and Regulations, and strong writing and verbal communication skills, and attention to detail.

### **How long, what kind of time does it take to review a case?**

This is impossible to answer. It depends on the nature and complexity of a given case.

### **Is there anything else that you can advise me about serving in this capacity?**

Please be aware that should a case progress to a hearing it is likely that the hearing will occur sometime between one and two years after you have provided your written opinion/report. The Deputy Attorney General assigned to the case will work with you to coordinate a date that you will be available to testify along with all other parties.

### **Are there any particular practice areas that the Board needs to develop a pool of expert witnesses?**

If you are in pediatrics/special education, home health, skilled nursing/rehabilitation, private practice, and are Board approved to provide advanced practice services and you are interested in serving in this capacity please apply.

# **Frequently Asked Questions – Serving as an Advanced Practice Reviewer**

## **What are the qualifications for someone to serve as an Expert?**

- Possess Board approval to provide advanced practice services in: hand therapy; physical agent modalities; or swallowing assessment, evaluation, and intervention (one, two or all).
- Must have practiced in the advanced practice area for at least five (5) of the last seven (7) years.
- Possess a current and active license issued by the Board without any restrictions.
- No current or prior discipline taken in California or any other state or jurisdiction regarding any health related occupation.
- No criminal convictions or expunged convictions.

You can review and download an application for “Expert Reviewer” from the Board web site at:

[http://www.bot.ca.gov/licensees/expert\\_witness.shtml](http://www.bot.ca.gov/licensees/expert_witness.shtml)

## **Can you define this role more?**

There are three primary roles that an Expert Reviewer may be asked to perform:

- Evaluate applications from OTs seeking Board approval to provide advanced practice services to determine if the OT has met the requirements.
- Evaluate applications (coursework) from educational providers who wish to get their course pre-approved by the Board.
- Assist and consult with Board staff on questions and issues surrounding advanced practice services.

Also, you will only be asked to conduct a review or render an opinion in advanced practice areas in which you have been approved.

## **How much of my time will this take?**

The review of an application from an OT seeking Board approval to provide advanced practice services normally takes approximately 5-20 per application.

The review of an application from an educational provider seeking pre-approval of coursework normally takes 25-30 minutes.

## **Can I decline an assignment?**

Yes. When you are contacted by a Board representative you will be asked if you can devote time to provide this service. It is the intent of Board, to respond to practitioners and providers in a prompt manner.

## **Are there any particular desirable qualities or skills that are needed to perform as an expert?**

A complete knowledge of the Practice Act and Regulations, particularly as they relate to advanced practice, and strong writing and verbal communication skills, and attention to detail.

## **AGENDA ITEM H**



# Chapter 1

# Getting the Scoop on Podcasting

## In This Chapter

- Finding out what podcasting is
- Creating a podcast
- Finding and subscribing to podcasts

**S**ometimes the invention that makes the biggest impact on our daily lives isn't

an invention at all, but the convergence of existing technologies, processes, and ideas. Podcasting may be the perfect example of that principle — and it's changing the relationship people have with their radios, music collections, books, education, and more.

The podcasting movement is actually a spin-off of another communications boom: personal Weblogs, commonly referred to as *blogs*. Blogs sprang up right and left, providing non-programmers and designers a clean, elegant interface that left many on the technology side wondering why they hadn't thought of it sooner. Everyday people could chronicle their lives, hopes, dreams, and fears, and show them to anyone who cared to read. And oddly enough, people did care to read — and still do.

Podcasting combines the instant information exchange of blogging with audio and video files that can be played on a computer or portable media device. When you make your podcast publicly available on the World Wide Web, you are exposing your craft to anyone with a computer and a broadband Internet connection. To put that in perspective, some online sources report the global online population is over 1.2 billion users. In the United States, broadband connections are now more popular than dialup among the 235 million Internet users. And to top it all off, portable players are surging in popularity, with over 22 million adult owners.

This chapter is for the consumers of the content (the audience) and those who make the content (the podcasters) alike. We cover the basic steps to record a podcast and lay out the basics of what you need to do to enjoy a podcast on your media player.

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## 12 Part I: Podcasting on a Worldwide Frequency

If you're starting to get the idea that podcasting is revolutionary, groundbreaking, and possibly a major component of social upheaval, great. But not all podcasts are so deep. In fact, many of them are just plain fun!

## Deciding Whether Podcasting Is for You

Technically speaking, *podcasting* is the distribution of specially encoded multimedia content to subscribed personal computers via the RSS 2.0 protocol.

Whew! Allow us to translate that into common-speak:

Podcasting allows you to listen to stuff you want to hear, whenever and

wherever you want.

Podcasting turns the tables on broadcast schedules, allowing the listener to choose not only what to listen to, but also when. And because podcasts are transferred via the Internet, the power to create an audio program isn't limited to those with access to a radio transmitter.

The simplest reason to podcast is that *it's just plain fun!* We've been podcasting since the beginning, and we're still having a blast, continuing to get out messages to our worldwide audiences and challenging ourselves with new tricks and techniques in creating captivating media. So, yeah, for the fun of it. Heck of a good reason.

The following sections cover other reasons podcasting is probably for you.

## You want to deliver audio content on a regular basis

Sure, you can include audio content in your blog if you have one. Many bloggers record audio segments and insert them as links into the text of their blog posts. Readers of the blog then download the files at their leisure. However, audio blogs require the readers to manually select the content they want to download. What sets podcasting apart from blogging is that podcasting automates that process. A listener who subscribes to your podcast is subscribed to all of your content, whenever it's available. No need to go back to the site to see what's new!

## Chapter 1: Getting the Scoop on Podcasting 13

### You want to reach beyond the boundaries of radio

In radio, the number of people who can listen to a show is limited by the power of the transmitter pumping out the signal. Podcasting doesn't use radio signals, transmitters, or receivers — at least not in the classic sense. Podcasts use the World Wide Web as a delivery system, opening up a potential audience that could extend to the entire planet.

No rules exist (yet, anyway) to regulate the creation of podcast content. In fact, neither the FCC nor any other regulatory body for any other government holds jurisdiction over podcasts. If that seems astounding, remember that podcasters are not using the public airwaves to deliver the message.

Just because the FCC doesn't have jurisdiction, you're not exempt from the law or — perhaps more importantly — immune to lawsuits. *You're personally responsible for anything you say, do, or condone on your show.* Additionally, the rules concerning airplay of licensed music, the distribution of copyrighted material, and the legalities of recording conversations all apply. Pay close attention to the relevant sections in Chapter 4 to avoid some serious consequences. When it comes to the legalities, ignorance is not bliss.

### What's in a name, when the name is podcasting?

As with most items that make their way into the conventional lexicon of speech, the precise origins and meaning behind *podcasting* are somewhat clouded. Although the domain *podcast.com* was originally registered back in 2002 (nothing was ever done with it, as far as we know), and Ben Hammersley suggested that and many other terms in February 2004 ([www.guardian.co.uk/media/2004/feb/12/broadcasting.digital](http://www.guardian.co.uk/media/2004/feb/12/broadcasting.digital) media), it's generally accepted in the podcast community that the first person to use the term

as a reference to the activity we now know as podcasting was Dannie Gregoire on September 15, 2004 (<http://groups.yahoo.com/group/ipodder-dev/message/41>). Although some assert the name has connotations to the popular iPod device created by Apple, Dannie didn't have that in mind when the phrase was coined. Regardless of the intentions, the term has been *backronymed* (that is, treated like an acronym and applied to a variety of plausible existing meanings). Of all the possibilities, we prefer *Programming On-Demand casting* (not *broadcasting*), which shortens nicely to *podcasting*. But of course, you can choose whichever one makes sense to you. Granted, the podcasting phenomenon was in part fueled by the wildly popular iPod portable media device, but no evidence suggests that the two were related when the name was coined.

## 14 Part I: Podcasting on a Worldwide Frequency

*Narrowcasting* (the practice of delivering content to a select group) distinguishes podcasting from traditional forms of broadcast communication, such as radio. Where a radio station *broadly* casts its signal to anyone who happens to be within the radius of the signal, podcasts *narrowly* cast content to people who have made the overt decision to listen.

### You have something to say

As a general rule, podcasters produce content that likely holds appeal for only a select group of listeners. Podcasts start with an idea, something that you have the desire and knowledge, either real or imaginary, to talk about. Add to that a bit of drive, do-it-yourself-ishness, and an inability to take no for an answer. The point is to say what you want to say, to those who want to hear it. Podcasts can be about anything and be enjoyed by just about anyone. The topics covered don't have to be earth-shattering or life-changing. There are a few rules and guidelines in common practice, but there may be times when you find it necessary to bend the rules. (That can be a lot of fun in itself!) Some of the most popular podcasts are created by everyday people who sit in front of their computers for a few nights a week and just speak their minds, hearts, and souls. Some are focused on niche topics; others are more broad-based.

### You want to hear from your listeners

We've heard more than one podcaster comment on the fact that they get, well . . . comments. Podcast listeners are more likely to provide feedback for the podcasts they listen to than radio show listeners are likely to e-mail their thoughts to the show host. That's probably traceable to the personal nature of a podcast. Podcasts offer their listeners — and makers — more control, options, and intimacy than traditional broadcast media can. Of course, the radio is much harder to talk back to than a computer with an Internet connection and e-mail.

When you ask for feedback, you're likely to get it — and from unusual places. Because geography doesn't limit the distance your podcast can travel, you may find yourself with listeners in faraway and exotic places. And this feedback isn't always going to be "Wow, great podcast!" Listeners will be honest with you when you invite feedback.

# Creating a Podcast

There are two schools of thought when it comes to creating a podcast: The “*I need the latest and greatest equipment in order to capture that crisp, clear sound of the broadcasting industry*” school of thought, and the “*Hey, my computer came with a microphone, and I’ve got this cool recording software already installed*” school of thought. Both are equally valid positions, and there are a lot of secondary schools in-between. The question is how far you’re willing to go. But allow us to dispel a few misconceptions about podcasting right off the bat: You’re not reprogramming your operating system, you’re not hacking into the Internal Revenue Service’s database, and you’re not setting up a wireless computer network with tinfoil from a chewing gum wrapper, a shoestring, and your belt — regardless of whether MacGyver showed you how. Podcasting, as mentioned earlier, is not rocket science. In fact, here’s a quick rundown of how you podcast:

1. Record audio and convert it to a download-friendly format.
2. Create a simple but specialized text file that describes your audio file.
3. Upload everything to the Web.

Yes, yes, yes, if it were that simple, then why is this book so thick? Well, we admit that this list does gloss over a few details, but a podcast — in its most streamlined, raw presentation — *is* that simple. The details of putting together a podcast start in Chapter 2 and wrap up in Chapter 7; then Chapters 9, 10, and 12 walk you through all the geek-speak you need to accomplish the podcast.

## Looking for the bare necessities

You need a few things before starting your first podcast, many of which you can probably find on your own computer:

\_ **A microphone:** Take a look at your computer. Right now, regardless of whether you have a laptop or desktop model, Windows or Macintosh, your computer probably has a microphone built into it — or a jack for plugging in an external mic, and maybe even an included external mic packaged somewhere with the manuals, cables, and such.

Position the microphone in a comfortable spot on your desk or table. If you’re using a laptop, it should be somewhere on your desk that allows for best recording results without hunching over the computer like *Young Frankenstein’s* Igor (That’s *EYE*-gor.) Check the laptop’s documentation to find out where the built-in microphone is located in the unit’s housing.

## 16 Part I: Podcasting on a Worldwide Frequency

Usually the built-in microphone in a laptop is located close to the edge of the keyboard or near the laptop’s speakers. Some models tuck it in at the center point of the monitor’s base.

\_ **Recording software:** Check out the software that came with your computer.

You know, all those extra CDs that you filed away, thinking, “I’ll check those out sometime.” Well, the time has arrived to flip through them. You probably have some sort of audio-recording software loaded on your computer, such as RecordIt (PC) or GarageBand (which comes pre-installed with many new Macs).

If you don’t already have the appropriate software, here’s a fast way to get it: Download the version of Audacity that fits your operating system (at <http://audacity.sourceforge.net>), shown in Figure 1-1. (Oh, yeah . . . it’s free.)

\_ **An audio card:** Make sure your computer has the hardware it needs to handle audio recording and the drivers to run the hardware — unless, of course, you have a built-in microphone.

Some desktop computers come with a very elementary audio card built

into the motherboard. Before you run out to your local computer vendor and spring for an audio card, check your computer to see whether it can already handle basic voice recording.

For tips on choosing the right mic and audio accessories, be sure to check out Chapter 2. Chapter 3 covers all the software you need.

**Figure 1-1:**

Audacity  
allows you  
to edit audio  
and create  
MP3 files.

## Chapter 1: Getting the Scoop on Podcasting 17

### Recording your first podcast

When you have your computer set up and your microphone working, it's time to start recording. Take a deep breath and then follow these steps:

**1. Jot down a few notes on what you want to talk about.**

Nothing too fancy — just make an outline that includes remarks about who you are and what you want to talk about. Use these notes to keep yourself on track.

All this — checking your computer, jotting down notes, and setting up your recording area — is called *preshow prep*, discussed in depth in Chapter 4 by other podcasters who have their own ways of approaching preshow prep (all of which can give you some starting points).

**2. Click the Record button in your recording software and go for as long as it takes for you to get through your notes.**

We recommend keeping your first recording to no more than 20 minutes. That may seem like a lot of time, but it *will* fly by.

**3. Give a nice little sign-off (like “Take care of yourselves! See you next month.”) and click the Stop button.**

**4. Choose File→Save As and give your project a name.**

Now bask in the warmth of creative accomplishment.

### Compressing your audio files

Nearly all portable media devices and computers can play MP3 files as a default format. Some play many other formats, but MP3 is used as a common format. If your recording software has the ability to output straight to MP3 format, your life is much simpler. In Audacity's case, you need to download an add-on file. If you can't export directly to MP3, check out Apple iTunes at [www.apple.com/itunes](http://www.apple.com/itunes). (The iTunes window is shown in Figure 1-2.) It does many things for the podcaster, including converting a wide variety of audio file formats to MP3. Yes, it's from Apple, but the Apple folks made sure to create a version for Windows also.

After you install iTunes, follow these steps to convert your audio file:

**1. Choose File→Add File to Library.**

Or you can press ⌘+O (Mac) or Ctrl+O (Windows).

**2. Browse for the audio file you want to convert and then click Open.**

Your file is now in the iTunes Library.

## 18 Part I: Podcasting on a Worldwide Frequency

**Figure 1-2:**

Apple  
iTunes,  
available  
for both  
Mac and

Windows platforms, can create MP3 files from a variety of audio formats.

**3. Find the audio file in the iTunes Library and click to select it.**

**4. Choose Advanced⇨Convert Selection to MP3.**

Your file is converted to the MP3 format. Figure 1-3 shows the progress screen that indicates your file is being converted.

The default file format for iTunes file import is AAC. If your menu doesn't have a Convert Selection to MP3 option, go to iTunes Preferences (File⇨Preferences

on a Mac, or Edit⇨Preferences in Windows), under the Advanced tab, Importing tab, and change the Import Using option to MP3 Encoder. The Settings should be at least Good Quality (128 kbps). Now your files will be imported and converted to MP3.

Congratulations — you just recorded your first audio podcast! Easy, isn't it? This is merely the first step into a larger world, as Obi-Wan once told Luke.

## Transferring your audio to the Web

An audio file sitting on your desktop, regardless of how earth-shattering the contents may be, is not a podcast. Nope, not by a long shot. You have to get it up on the World Wide Web and provide a way for listeners' podcatcher software to grab that tasty file for later consumption.

## Chapter 1: Getting the Scoop on Podcasting 19

**Figure 1-3:**

While compressing audio files, Apple gives a progress report on the conversion process.

If you already have a Web server for your blog, company Web site, or personal site, this process can be as easy as creating a new folder and transferring your newly created audio file to your server via your FTP client of choice.

If that last paragraph left you puzzled and you're wondering what kind of mess you've gotten yourself into . . . relax. We don't leave you hanging out in the wind. Chapter 10 covers everything you need to know about choosing a Web host for your podcast media files.

Note that we called your audio a podcast *media* file. Podcasting isn't just about audio. On the contrary, you can podcast any sort of media file you like, even video. Although this book focuses on audio files, you can use all the tips we give here to handle other types of media files.

After you post the media file, you need to create a specially formatted text file, known as an RSS file (*Really Simple Syndication*), explained in detail in Chapter 12, and move it up to your Web server. This file describes where to find the media file you just placed on your Web server. This is your *podcast feed*. People who listen to your podcast can subscribe to your show by placing a link to this podcast feed in their podcatching client.

Yes, we know . . . this sounds really complicated. But we assure you it's not. Some hosting companies such as LibSyn ([www.libsyn.com](http://www.libsyn.com)) specialize in taking the technological "bite" out of podcasting so you can focus on creating

## 20 Part I: Podcasting on a Worldwide Frequency

your best-sounding show. With LibSyn (shown in Figure 1-4), moving your audio files to the Web server is as simple as pushing a few buttons, and the creation of the RSS 2.0 podcast feed and even the accompanying Web page are automatic.

If you want to take more control over your Web site, podcast media files, and their corresponding RSS 2.0 feed, look at Chapters 10 and 12. In those pages, we walk you through some essentials — not only how to upload a file but also how to easily generate your RSS 2.0 file using a variety of tools.

### Figure 1-4:

LibSyn handles many of the technical details of podcasting.

## Grabbing listeners

With media files in place and an RSS 2.0 feed ready for podcatcher consumption, you're officially a podcaster. Of course, that doesn't mean a lot if you're the only person who knows about your podcast. You need to spread the word to let others know that you exist and that you have something pretty darn important to say.

### Creating show notes

Before you pick up a bullhorn, slap a sandwich board over yourself, and start walking down the street (virtually, anyway), you have to make sure you're descriptive enough to captivate those who reach your Web site. First, you're going to want to describe the contents of your show to casual online passers-by in hopes of getting them to listen to what you have to say.

## Chapter 1: Getting the Scoop on Podcasting 21

You can easily glance at a blog and get the gist of a conversation, but an audio file requires active listening to understand, and it's quite difficult to skim. In effect, you're asking people to make an investment of their time in listening to you talk, read a story, or play music. You need some compelling text on a Web page to hook them.

Descriptions of podcast episodes are called *show notes*, and they're designed to quickly showcase or highlight the relevant and pertinent contents of the audio file itself. A verbatim transcript of your show isn't a good idea, but we do recommend more than simply saying "a show about my day." Chapter 11 discusses ways to create your show notes and offers tips and tricks to give them some punch. (Refer to Figure 1-4 for an example of what show notes look like on a Web browser.)

### Getting listed in directories

When you have a ready media file and a solid set of show notes, you're ready to take your podcast message to the masses. You can get listed on some directories and podcast-listing sites, such as iTunes, Podcast Alley, Podcast Pickle, Zune Marketplace, and Digg.com (explained later in this chapter). Potential listeners visit literally dozens of Web sites as they seek out new content, and getting yourself listed on as many as possible can help bring in more new listeners to your program.

A huge listener base is a double-edged sword: More demand for your product means more of a demand on you and the resources necessary to keep your podcast up and running. We recommend working on your craft and your skills, as well as getting a good handle on the personal and technological requirements of podcasting, *before* you embark on a huge marketing campaign. When you're ready, Part IV has more details about marketing.

Part IV spends a lot of time talking about the various ways you can attract more listeners to your show and ways to respond to the ideas and feedback that your listeners inevitably provide. Many podcasters are surprised at the sheer volume of comments they receive from their listeners — but when you consider how personal podcasting is (compared to traditional forms of media distribution), that's really not surprising at all.

## Catching a Cast with Your Podcatching Client

So you have the MP3 file, some XML, and accompanying show notes. You're all set, but ask yourself, "How do podcasts get from the Web to my computer?" To access all this great, new content, you need a *podcatcher*, an application that looks at various RSS feeds, finds the new stuff, and transfers it from the

### 22 Part I: Podcasting on a Worldwide Frequency

Internet to your computer automatically. In this section, we take a look at some of the different podcatching clients available for your listening/viewing needs.

You may think you need an iPod for all kinds of reasons, but you really don't need one to podcast. Allow us to state that again: *You do not need an iPod to listen to or create a podcast.* As long as you have an MP3 player — be it an application on a Mac, an application on a PC, or a portable device you can unplug and take with you — you possess the capability to listen to podcasts. Depending on the MP3 player, you may even be able to create your podcast on the device as well — but to listen, all you need is a device that can play audio files.

### The catcher that started it all: Juice

Juice (shown in Figure 1-5) started life as a product called iSpider, then was branded as iPodder, and later became iPodder Lemon. In November 2005, as if searching for a new identity in the community, the package was rebranded as Juice. It was inspired by a script written by Adam Curry (yes, the former MTV VJ and no, we're not kidding). It promotes itself as an *open-source* (free to use) application that downloads audio files from RSS feeds of your choice directly to your Mac or PC. You can then sync your portable player with your computer's media player, and now you're podcasting-on-the-go.

**Figure 1-5:**

The groundbreaking, trendsetting, and all-around-first podcatching client — Juice.

## Chapter 1: Getting the Scoop on Podcasting 23

Download Juice from <http://juicereceiver.sourceforge.net>. After you install it, subscribing to feeds is a simple process. Follow these steps if you don't have a specific podcast in mind:

#### 1. Click the Podcast Directory tab.

Juice comes preloaded with a variety of the more popular directories of podcasts.

#### 2. Navigate through the directory structure.

Click the name of the directory to see the choices offered. In some cases, you may need to click through to a subdirectory to see additional podcasts.



### 3. Double-click the name of a podcast.

You can also single-click the name of the podcast and then click the Add button near the top.

### 4. Click Save.

That's it! You've just subscribed to your first podcast with Juice.

Of course, you don't have to navigate through the list of podcasts. Follow these steps if you have a specific podcast in mind:

#### 1. Click the Subscriptions tab.

#### 2. On the Subscriptions panel, click the little green button with a plus symbol on it.

The Add a Feed window opens.

#### 3. On your favorite podcast Web site, look for a small icon, typically orange, that says RSS, RSS 2.0, or something similar.

The icon may not even say RSS, but simply be a symbol like the one in the margin.

#### 4. Right click the icon to copy the link location.

#### 5. Paste the copied information into the URL field of the Add a Feed window.

Or, type it in — just be very careful with your typing! If you get it wrong, you won't get your downloads.

Congrats! You now know how to use Juice to subscribe to any podcasts you happen to come across in the future.

## 24 Part I: Podcasting on a Worldwide Frequency

### The 800-pound gorilla called iTunes

With the launch of iTunes version 4.9 in June 2005, podcasting went from what the geeks were doing in the basement of the Science Building to the next wave of innovation on the Internet (which was, of course, developed by the geeks in the basement of the Science Building). As always, a step into the mainstream market brought some dismay; the hardcore, independent podcasters considered this a sad day for podcasting as corporate entities (sponsored by Disney, ESPN, BBC, and so on) dominated the iTunes Music Store podcast directory (shown in Figure 1-6). What about the indie podcasts — the ones that started it all? Would they be forgotten? Go unnoticed? Languish unsubscribed? Well, at first, it seemed that many of the original groundbreakers that the podcasting community knew and loved (*The Dawn and Drew Show*, *Career Opportunities*, *The Catholic Insider*, *GrammarGirl*) might get lost in the stampede. But not yet, as it turns out.

Apple's iTunes (available for download at [www.itunes.com](http://www.itunes.com)) works as a podcatching client. It lends an automatic hand to people who don't know where to find aggregators, where to find blogs that host podcasts, and which podcast directories list the shows that fit their needs and desires — now they too can enjoy a wide range of podcast choices.

**Figure 1-6:**

The Apple  
iTunes  
Music  
Store's podcast  
feature.

## Chapter 1: Getting the Scoop on Podcasting 25

With iTunes, podcasting reached into the mainstream markets around the world. (And if that doesn't make you go "Wow!" consider this: On August 4, 2005, iTunes launched in Japan. Within four days, the iTunes Music Store had 1 million downloads. Sony's own MP3 download service averages less than 500,000 downloads a month.) Instead of dealing with third-party applications, Apple iTunes is a one-stop shop for all your podcasting needs.

It gets even better: Subscribing to a podcast with iTunes is just as easy, if not easier than with Juice. Follow these steps to do so:

**1. In the iTunes Music Store, click the Podcasts link located in the top section of the left column.**

You can also click the Podcasts icon on the top left of the main iTunes screen and the Podcast Directory icon in the lower right. Or search for a podcaster or a podcast using the Search bar in the upper-right of the iTunes interface.

**2. Find the podcast of your choice.**

You can do that by

- Clicking the Browse link to browse through all the podcasts in iTunes

- Searching by clicking the Power Search link

Both of these links are located in the Quick Links section on the right side of the Podcasts page in the iTunes Music Store.

**3. When you get to the podcast page (and available podcasts) in iTunes, click the Subscribe button.**

If you're using iTunes for the first time to subscribe to a feed, you get a confirmation message. You can select the Do Not Ask About Subscribing Again option to avoid this message.

After your podcast finishes downloading, you can find the new episodes by going to the Podcasts section in the left column of iTunes. The new episodes are marked to let you know that you have fresh content waiting for you, and iTunes remembers where you left off in a podcast if you pause or zip over to another podcast or playlist.

## Options, options, and more options

Of course, everyone's tastes and styles are different, and there are plenty more options for podcatching clients. Maybe you're using Mac, Windows, or an entirely different operating system. Maybe you don't want to install any

## 26 Part I: Podcasting on a Worldwide Frequency

new software on your system; or maybe you just like to be different. Hey, that's okay! You too can be a podcast listener:

\_ **Doppler:** Designed exclusively for the Windows platform, Doppler (<http://dopplerradio.net>) has a strong contingent of dedicated users who are perfectly happy with the features it offers. Additionally, it seems to be a pretty rock-solid piece of software, and it's available for free.

\_ **Songbird:** Songbird ([www.softpedia.com/get/Multimedia/Audio/Audio-Players/Songbird.shtml](http://www.softpedia.com/get/Multimedia/Audio/Audio-Players/Songbird.shtml)) is another Windows-only application that takes an interesting approach to podcatching (and music) with its Web browser look and feel. The default interface is a bit dark, but it can be customized if you have a little savvy with that sort of thing. Although the software is stable, it was a bit confusing at first to subscribe to podcasts — a little digging through the help provides two options. The product idea is sound, but needs a little maturity as of this writing.

\_ **Podcast Ready:** In some ways, Podcast Ready (<http://podcastready.com>) is similar to iTunes. It combines simple-to-use software and an easy-to-use Web interface to find and download podcasts. Using a bookmarked link, you can quickly subscribe to podcasts via Podcast Ready's site from any Web page with an RSS feed. Using MyPodder software, you can sync your Podcast Ready subscription list with your iPod. MyPodder is available for Windows, Mac OSX, Linux, and more, and is available to download right from the Podcast Ready site.

\_ **Zune Marketplace:** Zune Marketplace (<http://zune.net>) is the companion software to the Zune portable media device. The marketplace contains lots of choices for music and podcasts. It is currently available only for Microsoft Windows — which makes sense because Microsoft

makes the Zune. Using categories or a search, you can quickly find content that interests you. Many podcasters have the Zune icon on their Web sites to make it easy to get their content with a single click of the mouse.

**PodNova:** PodNova (<http://podnova.com>) is a service that tracks podcast content, yet doesn't require you to download any software to your desktop. You have the option to download some software so files can be transferred to your MP3 player, but it's nice to know that some services don't require this step. The service is pretty intuitive with a decent search and allows you to set up lists of your favorite shows so you can keep them handy.

This is only a starting point for getting access to podcasts. Any attempt at a comprehensive list here would be instantly obsolete. Podcasting continues to grow in popularity, and new podcatching clients and players are coming out all the time. Don't think podcast listening is limited to your computer or MP3 player — you can even listen to podcasts on your phone or TiVo.

## Chapter 1: Getting the Scoop on Podcasting 27

For more information and product comparisons, we suggest heading over to PodcatcherMatrix (<http://podcatchermatrix.org>) and exploring more podcatching clients. Bottom line: At this point, you should easily be able to subscribe to the podcasts of your choice.

# Quest for Podcasts

Now that you have your podcatching client, it's time to take a good listen to what's happening in the podcasting community. If you're going to podcast (and with you picking up this book, it's a safe assumption that the interest is strong), it's a good idea to take a look around the podcasting community and see what other podcasters are doing.

Many podcatching clients have internal directories of podcasts, and you can access their listings from another directory or listing site maintained elsewhere on the Internet. Other aggregators maintain their own lists based on how many listeners have used their podcatcher to subscribe to particular shows.

We give you a few other places to get started in the following sections — directories, podcast-listing services, and even podcast-specific search engines. (Check out the various sources mentioned in Chapter 18 as well.) So where are these directories? Fire up your browser and, as Edgar Winter says, "Come on and take a free ride. . ."

There are so many directories for podcasts that Rob Walch of Podcast411 has put together a "directory of directories" (<http://podcast411.com/page2.html>). As of this writing, 161 different directories are listed!

## iTunes

For the time being, iTunes is king of the hill when it comes to podcast directories. The directory includes not only show information, searchable in a myriad of ways, but also the ability to listen to specific episodes, subscribe to a podcast with one click, visit the show's Web site, leave comments, and see the podcast picks of other people who share an interest in the show you're viewing — and all that is tied in to the same free, friendly software you use to sync your iPod! When your podcast gets legs and starts running, and it comes time to post your name in the directories, make sure you put iTunes near the top of the list. From a public relations standpoint, it's pretty impressive to say "My podcast is listed in Apple iTunes." Many Web sites even have a link directly to their iTunes podcast page and one-click subscription. You have to admit, the people at Apple are always trying to make things simpler.

## 28 Part I: Podcasting on a Worldwide Frequency

## Podcast Pickle

Gary Leland and the crew at Podcast Pickle (<http://podcastpickle.com>) take a slightly different approach for listeners to find the podcasts they're looking for. Their best innovation, in our opinion, is the Favorites listing. Rather than rely on voting as a measure of popularity, the Pickle allows registered members to mark as many shows as they like as their favorites. The more people who have marked a show as Favorite, the higher up on the Favorites list a podcast is. And unlike Podcast Alley's fairly unwavering top 10 list, Podcast Pickle periodically takes its top ranked podcasts and moves them to the "Hall of Fame" to allow others to show up in the top listing. A neat idea! Yes, it's a lot like a popularity contest; you have no way to judge how well *you* might like a show just because a bunch of other people do. That's why Podcast Pickle also allows you to browse by category or search for relevant keywords that mean something to you. Like Podcast Alley, it also has an active forum section where you can see what other folks are saying about a particular podcast before you subscribe.

## Podcast Alley

Podcast Alley (<http://podcastalley.com>) quickly became the first place to boast, brand, and generally beat your chest about your show. With incredibly active forums, detailed descriptions of podcasts, and individual episodes — plus the majority of all podcasters clamoring to get their listeners to "VOTE FOR ME ON PODCAST ALLEY THIS MONTH!" — it's no wonder that Podcast Alley is one of the most active podcast listing and ratings service to date.

## Zune

Apple has the iPod and Microsoft has the Zune ([www.zune.net](http://www.zune.net)). Like many things before, Microsoft wasn't the first to the table when it came to podcasting. The company took a "wait and see" approach for the first couple years, but eventually got on board with its Zune product family. As of now, the Zune is supported only on Windows platforms.

Like the iPod, the Zune supports audio — including podcasts — and video. Although you can't search for podcasts from the main Web page, you can search from within the Zune software. Click the Podcasts link in the Marketplace section in the upper left of the screen to get started searching and subscribing.

## Chapter 1: Getting the Scoop on Podcasting 29

## Digg.com

Digg.com is a site originally known for its innovative way of getting news to the masses by having its news stories get noticed by peer selection, a process they call *digging*. In 2006, a podcast directory was added to the mix ([www.digg.com/podcasts](http://www.digg.com/podcasts)). As more people digg a show (or episode), the more popular it gets and the higher it moves in the digg.com list. That's right, Gracie — another popularity contest. Like other sites, digg.com has its share of "fanboys" of certain shows that garner the lion's share of the diggs that can leave some pretty good content unnoticed. As a directory, its information is well laid out and pretty easy to find.

## Other Podcast Resources

It goes without saying that this book is a snapshot in time, and you will likely want to keep up on the latest news and information of the podcasting world. We have a few suggestions to get you started. Perhaps, as you gain experience in podcasting, you'll share some of your pearls of wisdom with the community by contributing back to the vast universe of podcasting that many people like to call the *podosphere*. We recommend trying out these:

– **Blogger and Podcaster Magazine:** If you're looking for a great resource

of information from the people who live and breathe new media, look to Blogger and Podcaster Magazine (<http://bloggerandpodcaster.com>). Founded in 2007, the online magazine uses a graphical reader application that makes you feel like you're reading a real magazine! You can also pick up audio clips — and yes, it's even available in a print version sent to your door.

\_ **Podcast User Magazine:** Podcast User Magazine (<http://podcastusermagazine.com>) is a monthly PDF publication exclusively about podcasting. As producer Paul Nichols says, "[it] is precisely what it says on the tin — a magazine about podcasting." The publication is targeted at everyone from the professional producer to the complete novice. Topics cover a wide spectrum, including business, education, news, reviews, tips, and tricks from the veteran podcasters.

\_ **New Media Expo:** Some have compared podcasting to a religion. As in many religions, podcasters are drawn to a central gathering place. The New Media Expo ([www.newmediaexpo.com](http://www.newmediaexpo.com)), or NME, is the annual "Mecca" for podcasters and one of our favorite podcast gatherings. Started by Tim and Emile Bourquin in 2005, the expo is a great way to network with other podcasters, vendors, and attend focused conference sessions.

## 30 Part I: Podcasting on a Worldwide Frequency

If you're watching your budget, there's a fee to attend the conferences, but the expo floor is free of charge. Of course, like many cons and expos, a lot of the fun happens after hours. In 2008, the New Media Expo moved from sunny southern California to "sin city," Las Vegas. (Just remember — what happens at the NME, stays at the NME.)

-  [The Cloud](#)
-  [Podcast Hosting](#)
-  [Multimedia Blogging](#)
-  [Fast Downloads](#)
-  [Server Backup](#)
-  [Subscriber Experience](#)
-  [Podcast Pages \(new!\)](#)
-  [iPhone App](#)
-  [Sign Up Free For 7 Days](#)



## Podcast like a Pro

Hipcast makes it easy to start, manage, and build up your podcast.

### Hipcast is iTunes Ready

When you make a podcast with Hipcast, submitting your feed to iTunes is simple. We supply an iTunes-ready RSS feed, and all you have to do is copy it into iTunes. Worldwide syndication has never been so easy.

### Tons of Ways to Create Multimedia

There are many ways to get started when you're setting up your first podcast, but we ensure first of all that you can get your media to us.

#### 1. Record by Phone (Moblogging)

Audio podcasters have it easy. The only thing you need to get started is a telephone. Simply dial our number, record, and your audio will magically show up your Hipcast Audio List. You can even publish to your blog directly from a phone call!

#### 2. Record by WebRecorder (Flash Recorder)

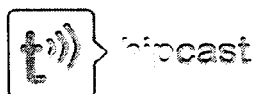
If you don't have any recording software on your desktop, you can record directly from our Web Recorder. All you need is a Web Cam or a Microphone.

#### 3. Upload your Multimedia

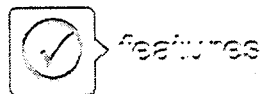
For those of you that are already set on multimedia, simply upload your files, and we'll encode them into a web format so that they can be heard or seen by everyone.

#### 4. The iPhone App

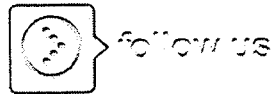
You can also record audio and video files with your iPhone and upload or publish them directly from our App. Learn more



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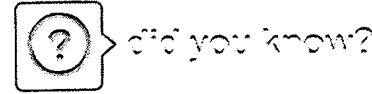


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4



Podcasting is the most accessible form of syndication. The number of multimedia ready mobile devices has skyrocketed in the past few years, and so has your potential audience!

