

# CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

LAWS & REGULATIONS 2013



STATE OF CALIFORNIA  
**dca**  
DEPARTMENT OF CONSUMER AFFAIRS

## PREFACE

The California Board of Occupational Therapy is pleased to present the 2013 edition of the California Laws and Regulations relating to the practice of occupational therapy. This publication is a condensed version of the various codes and does not incorporate all sections of law contained within any of the respective codes.

To access a complete listing of the California Codes, please visit the following websites:

For California Codes contact:

<http://leginfo.legislature.ca.gov/faces/codes.xhtml>

For California Code of Regulations contact:

<http://ccr.oal.ca.gov>

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## CHAPTER 5.6 OCCUPATIONAL THERAPY

### 2570. Citation of chapter

This chapter may be cited as the Occupational Therapy Practice Act.

### 2570.1. Legislative findings

The Legislature finds and declares that the practice of occupational therapy in California affects the public health, safety, and welfare and there is a necessity for that practice to be subject to regulation and control.

### 2570.2. Definitions

As used in this chapter, unless the context requires otherwise:

- (a) "Appropriate supervision of an aide" means that the responsible occupational therapist or occupational therapy assistant shall provide direct in-sight supervision when the aide is providing delegated client-related tasks and shall be readily available at all times to provide advice or instruction to the aide. The occupational therapist or occupational therapy assistant is responsible for documenting the client's record concerning the delegated client-related tasks performed by the aide.
- (b) "Aide" means an individual who provides supportive services to an occupational therapist and who is trained by an occupational therapist to perform, under appropriate supervision, delegated, selected client and nonclient-related tasks for which the aide has demonstrated competency. An occupational therapist licensed pursuant to this chapter may utilize the services of one aide engaged in patient-related tasks to assist the occupational therapist in his or her practice of occupational therapy.
- (c) "Association" means the Occupational Therapy Association of California or a similarly constituted organization representing occupational therapists in this state.
- (d) "Board" means the California Board of Occupational Therapy.
- (e) "Examination" means an entry level certification examination for occupational therapists and occupational therapy assistants administered by the National Board for Certification in Occupational Therapy or by another nationally recognized credentialing body.
- (f) "Good standing" means that the person has a current, valid license to practice occupational therapy or assist in the practice of occupational therapy and has not been disciplined by the recognized professional certifying or standard-setting body within five years prior to application or renewal of the person's license.
- (g) "Occupational therapist" means an individual who meets the minimum education requirements specified in Section 2570.6 and is licensed pursuant to the provisions of this chapter and whose license is in good standing as determined by the board to practice occupational therapy under this chapter. Only the occupational therapist is responsible for the occupational therapy assessment of a client, and the development of an occupational therapy plan of treatment.



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- (h) “Occupational therapy assistant” means an individual who is licensed pursuant to the provisions of this chapter, who is in good standing as determined by the board, and based thereon, who is qualified to assist in the practice of occupational therapy under this chapter, and who works under the appropriate supervision of a licensed occupational therapist.
- (i) “Occupational therapy services” means the services of an occupational therapist or the services of an occupational therapy assistant under the appropriate supervision of an occupational therapist.
- (j) “Person” means an individual, partnership, unincorporated organization, or corporation.
- (k) “Practice of occupational therapy” means the therapeutic use of purposeful and meaningful goal-directed activities (occupations) which engage the individual’s body and mind in meaningful, organized, and self-directed actions that maximize independence, prevent or minimize disability, and maintain health. Occupational therapy services encompass occupational therapy assessment, treatment, education of, and consultation with, individuals who have been referred for occupational therapy services subsequent to diagnosis of disease or disorder (or who are receiving occupational therapy services as part of an Individualized Education Plan (IEP) pursuant to the federal Individuals with Disabilities Education Act (IDEA)).

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

- (l) “Hand therapy” is the art and science of rehabilitation of the hand, wrist, and forearm requiring comprehensive knowledge of the upper extremity and specialized skills in assessment and treatment to prevent dysfunction, restore function, or reverse the advancement of pathology. This definition is not intended to prevent an occupational therapist practicing hand therapy from providing other occupational therapy services authorized under this act in conjunction with hand therapy.
- (m) “Physical agent modalities” means techniques that produce a response in soft tissue through the use of light, water, temperature, sound, or electricity. These techniques are used as adjunctive methods in conjunction with, or in immediate preparation for, occupational therapy services.

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### 2570.3. Licensing requirement

- (a) No person shall practice occupational therapy or hold himself or herself out as an occupational therapist or as being able to practice occupational therapy, or to render occupational therapy services in this state unless he or she is licensed as an occupational therapist under the provisions of this chapter. No person shall hold himself or herself out as an occupational therapy assistant or work as an occupational therapy assistant under the supervision of an occupational therapist unless he or she is licensed as an occupational therapy assistant under the provisions of this chapter.
- (b) Only an individual may be licensed under this chapter.
- (c) Nothing in this chapter shall be construed as authorizing an occupational therapist to practice physical therapy, as defined in Section 2620; speech-language pathology or audiology, as defined in Section 2530.2; nursing, as defined in Section 2725; psychology, as defined in Section 2903; or spinal manipulation or other forms of healing, except as authorized by this section.
- (d) An occupational therapist may provide advanced practices if the therapist has the knowledge, skill, and ability to do so and has demonstrated to the satisfaction of the board that he or she has met educational training and competency requirements. These advanced practices include the following:
  - (1) Hand therapy.
  - (2) The use of physical agent modalities.
  - (3) Swallowing assessment, evaluation, or intervention.
- (e) An occupational therapist providing hand therapy services shall demonstrate to the satisfaction of the board that he or she has completed post professional education and training in all of the following areas:
  - (1) Anatomy of the upper extremity and how it is altered by pathology.
  - (2) Histology as it relates to tissue healing and the effects of immobilization and mobilization on connective tissue.
  - (3) Muscle, sensory, vascular, and connective tissue physiology.
  - (4) Kinesiology of the upper extremity, such as biomechanical principles of pulleys, intrinsic and extrinsic muscle function, internal forces of muscles, and the effects of external forces.
  - (5) The effects of temperature and electrical currents on nerve and connective tissue.
  - (6) Surgical procedures of the upper extremity and their postoperative course.
- (f) An occupational therapist using physical agent modalities shall demonstrate to the satisfaction of the board that he or she has completed post professional education and training in all of the following areas:

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- (1) Anatomy and physiology of muscle, sensory, vascular, and connective tissue in response to the application of physical agent modalities.
  - (2) Principles of chemistry and physics related to the selected modality.
  - (3) Physiological, neurophysiological, and electrophysiological changes that occur as a result of the application of a modality.
  - (4) Guidelines for the preparation of the patient, including education about the process and possible outcomes of treatment.
  - (5) Safety rules and precautions related to the selected modality.
  - (6) Methods for documenting immediate and long-term effects of treatment.
  - (7) Characteristics of the equipment, including safe operation, adjustment, indications of malfunction, and care.
- (g) An occupational therapist in the process of achieving the education, training, and competency requirements established by the board for providing hand therapy or using physical agent modalities may practice these techniques under the supervision of an occupational therapist who has already met the requirements established by the board, a physical therapist, or a physician and surgeon.
- (h) The board shall develop and adopt regulations regarding the educational training and competency requirements for advanced practices in collaboration with the Speech-Language Pathology and Audiology Board, the Board of Registered Nursing, and the Physical Therapy Board of California.
- (i) Nothing in this chapter shall be construed as authorizing an occupational therapist to seek reimbursement for services other than for the practice of occupational therapy as defined in this chapter.
- (j) “Supervision of an occupational therapy assistant” means that the responsible occupational therapist shall at all times be responsible for all occupational therapy services provided to the client. The occupational therapist who is responsible for appropriate supervision shall formulate and document in each client’s record, with his or her signature, the goals and plan for that client, and shall make sure that the occupational therapy assistant assigned to that client functions under appropriate supervision. As part of the responsible occupational therapist’s appropriate supervision, he or she shall conduct at least weekly review and inspection of all aspects of occupational therapy services by the occupational therapy assistant.
- (1) The supervising occupational therapist has the continuing responsibility to follow the progress of each patient, provide direct care to the patient, and to assure that the occupational therapy assistant does not function autonomously.

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(2) An occupational therapist shall not supervise more occupational therapy assistants, at any one time, than can be appropriately supervised in the opinion of the board. Two occupational therapy assistants shall be the maximum number of occupational therapy assistants supervised by an occupational therapist at any one time, but the board may permit the supervision of a greater number by an occupational therapist if, in the opinion of the board, there would be adequate supervision and the public's health and safety would be served. In no case shall the total number of occupational therapy assistants exceed twice the number of occupational therapists regularly employed by a facility at any one time.

(k) The amendments to subdivisions (d), (e), (f), and (g) relating to advanced practices, that are made by the act adding this subdivision, shall become operative no later than January 1, 2004, or on the date the board adopts regulations pursuant to subdivision (h), whichever first occurs.

#### **2570.4 Persons exempt from licensure**

Nothing in this chapter shall be construed as preventing or restricting the practice, services, or activities of any of the following persons:

- (a) Any person licensed or otherwise recognized in this state by any other law or regulation when that person is engaged in the profession or occupation for which he or she is licensed or otherwise recognized.
- (b) Any person pursuing a supervised course of study leading to a degree or certificate in occupational therapy at an accredited educational program, if the person is designated by a title that clearly indicates his or her status as a student or trainee.
- (c) Any person fulfilling the supervised fieldwork experience requirements of subdivision (c) of Section 2570.6, if the experience constitutes a part of the experience necessary to meet the requirement of that provision.
- (d) Any person performing occupational therapy services in the state if all of the following apply:
  - (1) An application for licensure as an occupational therapist or an occupational therapy assistant has been filed with the board pursuant to Section 2570.6 and an application for a license in this state has not been previously denied.
  - (2) The person possesses a current, active, and non-restricted license to practice occupational therapy under the laws of another state that the board determines has licensure requirements at least as stringent as the requirements of this chapter.
  - (3) Occupational therapy services are performed in association with an occupational therapist licensed under this chapter, and for no more than 60 days from the date on which the application for licensure was filed with the board.
- (e) Any person employed as an aide subject to the supervision requirements of this section.

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### **2570.5. Limited permit**

- (a) A limited permit may be granted to any person who has completed the education and experience requirements of this chapter.
- (b) A person who meets the qualifications to be admitted to the examination for licensure under this chapter and is waiting to take the examination or awaiting the announcement of the results of the examination, according to the application requirements for a limited permit, may practice as an occupational therapist or as an occupational therapy assistant under the direction and appropriate supervision of an occupational therapist duly licensed under this chapter. If that person fails to pass the examination during the initial eligibility period, all privileges under this section shall automatically cease upon due notice to the applicant of that failure and may not be renewed.
- (c) A limited permit shall be subject to other requirements set forth in rules adopted by the board.

### **2570.6. Filing of application**

An applicant applying for a license as an occupational therapist as an occupational therapy assistant shall file with the board a written application provided by the board, showing to the satisfaction of the board that he or she meets all of the following requirements:

- (a) That the applicant is in good standing and has not committed acts or crimes constituting grounds for denial of a license under Section 480.
- (b) (1) That the applicant has successfully completed the academic requirements of an educational program for occupational therapists or occupational therapy assistants that is approved by the board and accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE), or accredited or approved by the American Occupational Therapy Association's (AOTA) predecessor organization, or approved by AOTA's Career Mobility Program.
- (2) The curriculum of an educational program for occupational therapists shall contain the content required by the ACOTE accreditation standards, or as approved by AOTA's predecessor organization, or as approved by AOTA's Career Mobility Program, including all of the following subjects:
  - (A) Biological, behavioral, and health sciences.
  - (B) Structure and function of the human body, including anatomy, kinesiology, physiology, and the neurosciences.
  - (C) Human development throughout the lifespan.
  - (D) Human behavior in the context of sociocultural systems.
  - (E) Etiology, clinical course, management, and prognosis of disease processes and traumatic injuries, and the effects of those conditions on human functioning.
  - (F) Occupational therapy theory, practice, and processes.

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- (3) The curriculum of an educational program for occupational therapy assistants shall contain the content required by the ACOTE accreditation standards, or as approved or accredited by AOTA's predecessor organization, including all of the following subjects:
- (A) Biological, behavioral, and health sciences.
  - (B) Structure and function of the normal human body.
  - (C) Human development.
  - (D) Conditions commonly referred to occupational therapists.
  - (E) Occupational therapy principles and skills.
- (c)(1) For an applicant who is a graduate of an occupational therapy or occupational therapy assistant educational program who is unable to provide evidence of having met the requirements of paragraph (2) or (3) of subdivision (b), he or she may demonstrate passage of the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association, as evidence of having successfully satisfied the requirements of paragraph (2) or (3) of subdivision (b).
- (2) For an applicant who completed AOTA's Career Mobility Program, he or she shall demonstrate participation in the program and passage of the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association, as evidence of having successfully satisfied the requirements of paragraphs (1) and (2) of subdivision (b).
- (d) That the applicant has successfully completed a period of supervised fieldwork experience approved by the board and arranged by a recognized educational institution where he or she met the academic requirements of subdivision (b) or (c) or arranged by a nationally recognized professional association. The fieldwork requirements for applicants applying for licensure as an occupational therapist or certification as an occupational therapy assistant shall be consistent with the requirements of the ACOTE accreditation standards, or AOTA's predecessor organization, or AOTA's Career Mobility Program, that were in effect when the applicant completed his or her educational program.
- (e) That the applicant has passed an examination as provided in Section 2570.7.
- (f) That the applicant, at the time of application, is a person over 18 years of age, is not addicted to alcohol or any controlled substance, and has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

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### **2570.7. Examinations**

- (a) An applicant who has satisfied the requirements of Section 2570.6 may apply for examination for licensure in a manner prescribed by the board. Subject to the provisions of this chapter, an applicant who fails an examination may apply for reexamination.
- (b) Each applicant for licensure shall successfully complete the entry level certification examination for occupational therapists or occupational therapy assistants, such as the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association. The examination shall be appropriately validated. Each applicant shall be examined by written examination to test his or her knowledge of the basic and clinical sciences relating to occupational therapy, occupational therapy techniques and methods, and any other subjects that the board may require to determine the applicant's fitness to practice under this chapter.
- (c) Applicants for licensure shall be examined at a time and place and under that supervision as the board may require.

### **2570.8. Reliance on information posted on the Internet Website**

For the purposes of verifying a license issued under this chapter, a person may rely on the licensure information posted on the board's Internet Web site, which includes the issuance and expiration dates of a license issued by the board.

### **2570.9. Issuance of license**

The board shall issue a license to any applicant who meets the requirements of this chapter, including the payment of the prescribed licensure or renewal fee, and who meets any other requirement in accordance with applicable state law.

### **2570.10. Renewal of license**

- (a) Any license issued under this chapter shall be subject to renewal as prescribed by the board and shall expire unless renewed in that manner. The board may provide for the late renewal of a license as provided for in Section 163.5.
- (b) In addition to any other qualifications and requirements for licensure renewal, the board may by rule establish and require the satisfactory completion of continuing competency requirements as a condition of renewal of a license.

### **2570.11. Inactive status**

Upon a written request, the board may grant inactive status to an occupational therapist or occupational therapy assistant who is in good standing, who meets the requirements of Section 462.

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### **2570.13. Rules for supervision of assistants and aides**

- (a) Consistent with this section, subdivisions (a), (b), and (c) of Section 2570.2, and accepted professional standards, the board shall adopt rules necessary to assure appropriate supervision of occupational therapy assistants and aides.
- (b) An occupational therapy assistant may practice only under the supervision of an occupational therapist who is authorized to practice occupational therapy in this state.
- (c) An aide providing delegated, client-related supportive services shall require continuous and direct supervision by an occupational therapist or occupational therapy assistant.

### **2570.14. Procedure for applicant not engaged in practice for five years**

An initial applicant who has not been actively engaged in the practice of occupational therapy within the past five years shall provide to the board, in addition to the requirements for licensure under Section 2570.6, any of the following:

- (a) Evidence of continued competency as referred to in subdivision (b) of Section 2570.10 for the previous two-year period.
- (b) Evidence of having completed the entry-level certification examination as described in subdivision (b) of Section 2570.7 within the previous two-year period.

### **2570.15. Therapists and assistants trained outside of United States**

Occupational therapists and occupational therapy assistants trained outside of the United States and its possessions shall be required to satisfy the examination requirements of Section 2570.7. The board shall require that these applicants have completed educational and supervised fieldwork requirements substantially equal to those contained in Section 2570.6, before taking the examination.

### **2570.16. Fees**

Initial license and renewal fees shall be established by the board in an amount that does not exceed a ceiling of one hundred fifty dollars (\$150) per year. The board shall establish the following additional fees:

- (a) An application fee not to exceed fifty dollars (\$50).
- (b) A late renewal fee as provided for in Section 2570.10.
- (c) A limited permit fee.
- (d) A fee to collect fingerprints for criminal history record checks.



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### **2570.17. Issuance of retired license**

- (a) The board shall issue, upon application and payment of a twenty-five dollar (\$25) fee, a retired license to an occupational therapist or an occupational therapy assistant who holds a license that is current and active, or capable of being renewed pursuant to Section 2570.10, and whose license is not suspended, revoked, or otherwise restricted by the board or subject to discipline under this chapter.
- (b) The holder of a retired license issued pursuant to this section shall not engage in any activity for which an active license is required. An occupational therapist holding a retired license shall be permitted to use the title “occupational therapist, retired” or “retired occupational therapist.” An occupational therapy assistant holding a retired license shall be permitted to use the title “occupational therapy assistant, retired” or “retired occupational therapy assistant.” The designation of retired shall not be abbreviated in any way.
- (c) The holder of a retired license shall not be required to renew that license.
- (d) In order for the holder of a retired license issued pursuant to this section to restore his or her license, he or she shall comply with Section 2570.14.

### **2570.18. Representation to public**

- (a) A person shall not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice occupational therapy in this state, unless authorized to practice occupational therapy under this chapter.
- (b) Unless licensed to practice as an occupational therapist under this chapter, a person may not use the professional abbreviations “O.T.,” “O.T.R.,” or “O.T.R./L.,” or “Occupational Therapist,” or “Occupational Therapist Registered,” or any other words, letters, or symbols with the intent to represent that the person practices or is authorized to practice occupational therapy.
- (c) Unless licensed to assist in the practice of occupational therapy as an occupational therapy assistant under this chapter, a person may not use the professional abbreviations “O.T.A.,” “O.T.A./L.,” “C.O.T.A.,” “C.O.T.A./L.,” or “Occupational Therapy Assistant,” “Licensed Occupational Therapy Assistant,” or any other words, letters, or symbols, with the intent to represent that the person assists in, or is authorized to assist in, the practice of occupational therapy as an occupational therapy assistant.
- (d) The unauthorized practice or representation as an occupational therapist or as an occupational therapy assistant constitutes an unfair business practice under Section 17200 and false and misleading advertising under Section 17500.

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### **2570.185. Patient records**

- (a) An occupational therapist shall document his or her evaluation, goals, treatment plan, and summary of treatment in the patient record.
- (b) An occupational therapy assistant shall document the services provided in the patient record.
- (c) Occupational therapists and occupational therapy assistants shall document and sign the patient record legibly.
- (d) Patient records shall be maintained for a period of no less than seven years following the discharge of the patient, except that the records of unemancipated minors shall be maintained at least one year after the minor has reached the age of 18 years, and not in any case less than seven years.

### **2570.19. California Board of Occupational Therapy; Occupational Therapy Fund**

- (a) There is hereby created a California Board of Occupational Therapy, hereafter referred to as the board. The board shall enforce and administer this chapter.
- (b) The members of the board shall consist of the following:
  - (1) Three occupational therapists who shall have practiced occupational therapy for five years.
  - (2) One occupational therapy assistant who shall have assisted in the practice of occupational therapy for five years.
  - (3) Three public members who shall not be licentiates of the board, of any other board under this division, or of any board referred to in Section 1000 or 3600.
- (c) The Governor shall appoint the three occupational therapists and one occupational therapy assistant to be members of the board.

The Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall each appoint a public member. Not more than one member of the board shall be appointed from the full-time faculty of any university, college, or other educational institution.

- (d) All members shall be residents of California at the time of their appointment. The occupational therapist and occupational therapy assistant members shall have been engaged in rendering occupational therapy services to the public, teaching, or research in occupational therapy for at least five years preceding their appointments.
- (e) The public members may not be or have ever been occupational therapists or occupational therapy assistants or in training to become occupational therapists or occupational therapy assistants. The public members may not be related to, or have a household member who is, an occupational therapist or an occupational therapy assistant, and may not have had, within two years of the appointment, a substantial financial interest in a person regulated by the board.

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- (f) The Governor shall appoint two board members for a term of one year, two board members for a term of two years, and one board member for a term of three years. Appointments made thereafter shall be for four-year terms, but no person shall be appointed to serve more than two consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed by this section. Vacancies shall be filled by appointment for the unexpired term. The board shall annually elect one of its members as president.
- (g) The board shall meet and hold at least one regular meeting annually in the Cities of Sacramento, Los Angeles, and San Francisco. The board may convene from time to time until its business is concluded. Special meetings of the board may be held at any time and place designated by the board.
- (h) Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).
- (i) Members of the board shall receive no compensation for their services, but shall be entitled to reasonable travel and other expenses incurred in the execution of their powers and duties in accordance with Section 103.
- (j) The appointing power shall have the power to remove any member of the board from office for neglect of any duty imposed by state law, for incompetency, or for unprofessional or dishonorable conduct.
- (k) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

#### **2570.20. Duties of board; rules; proceedings**

- (a) The board shall administer, coordinate, and enforce the provisions of this chapter, evaluate the qualifications, and approve the examinations for licensure under this chapter.
- (b) The board shall adopt rules in accordance with the Administrative Procedure Act relating to professional conduct to carry out the purpose of this chapter, including, but not limited to, rules relating to professional licensure and to the establishment of ethical standards of practice for persons holding a license to practice occupational therapy or to assist in the practice of occupational therapy in this state.
- (c) Proceedings under this chapter shall be conducted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

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#### **2570.21. Board's officers and executive officers**

Subject to Sections 107 and 154, the board may employ an executive officer and other officers and employees.

#### **2570.22. Creation of Occupational Therapy Fund**

All fees collected by the board shall be paid into the State Treasury and shall be credited to the Occupational Therapy Fund which is hereby created. The money in the fund shall be available, upon appropriation by the Legislature, for expenditure by the board to defray its expenses and to otherwise administer this chapter .

#### **2570.23. Violations**

Any person who violates Section 2570.3 is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five thousand dollars (\$5,000), or by imprisonment of not more than one year in a county jail, or by both that fine and imprisonment.

#### **2570.24. Severability of provisions**

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are declared to be severable.

#### **2570.25. Priority of board; Protection of the public**

Protection of the public shall be the highest priority for the California Board of Occupational Therapy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

#### **2570.26. Denial, suspension, revocation, or probation of license**

- (a) The board may, after a hearing, deny, suspend, revoke, or place on probation a license, inactive license, or limited permit.
- (b) As used in this chapter, "license" includes a license, limited permit, or any other authorization to engage in practice regulated by this chapter.
- (c) The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

#### **2570.27. Discipline; Initial license**

- (a) The board may discipline a licensee by any or a combination of the following methods:
  - (1) Placing the license on probation with terms and conditions.
  - (2) Suspending the license and the right to practice occupational therapy for a period not to exceed one year.

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- (3) Revoking the license.
  - (4) Suspending or staying the disciplinary order, or portions of it, with or without conditions.
  - (5) Taking other action as the board, in its discretion, deems proper.
- (b) The board may issue an initial license on probation, with specific terms and conditions, to any applicant who has violated any provision of this chapter or the regulations adopted pursuant to it, but who has met all other requirements for licensure.

#### **2570.28. Grounds for denial or discipline**

The board may deny or discipline a licensee for any of the following:

- (a) Unprofessional conduct, including, but not limited to, the following:
  - (1) Incompetence or gross negligence in carrying out usual occupational therapy functions.
  - (2) Repeated similar negligent acts in carrying out usual occupational therapy functions.
  - (3) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000), in which event a certified copy of the record of conviction shall be conclusive evidence thereof.
  - (4) The use of advertising relating to occupational therapy which violates Section 17500.
  - (5) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a licensee by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision, order, or judgment shall be conclusive evidence thereof.
- (b) Procuring a license by fraud, misrepresentation, or mistake.
- (c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or term of this chapter or any regulation adopted pursuant to this chapter.
- (d) Making or giving any false statement or information in connection with the application for issuance or renewal of a license.
- (e) Conviction of a crime or of any offense substantially related to the qualifications, functions, or duties of a licensee, in which event the record of the conviction shall be conclusive evidence thereof.
- (f) Impersonating an applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license.

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- (g) Impersonating a licensed practitioner, or permitting or allowing another unlicensed person to use a license.
  - (h) Committing any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a licensee.
  - (i) Committing any act punishable as a sexually related crime, if that act is substantially related to the qualifications, functions, or duties of a licensee, in which event a certified copy of the record of conviction shall be conclusive evidence thereof.
  - (j) Using excessive force upon or mistreating or abusing any patient. For the purposes of this subdivision, “excessive force” means force clearly in excess of that which would normally be applied in similar clinical circumstances.
  - (k) Falsifying or making grossly incorrect, grossly inconsistent, or unintelligible entries in a patient or hospital record or any other record.
  - (l) Changing the prescription of a physician and surgeon or falsifying verbal or written orders for treatment or a diagnostic regime received, whether or not that action resulted in actual patient harm.
  - (m) Failing to maintain confidentiality of patient medical information, except as disclosure is otherwise permitted or required by law.
  - (n) Delegating to an unlicensed employee or person a service that requires the knowledge, skills, abilities, or judgment of a licensee.
  - (o) Committing any act that would be grounds for denial of a license under Section 480.
  - (p) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of infectious diseases from licensee to patient, from patient to patient, or from patient to licensee.
    - (1) In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 63001) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary to encourage appropriate consistency in the implementation of this subdivision, the board shall consult with the Medical Board of California, the Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians.
    - (2) The board shall seek to ensure that licensees are informed of their responsibility to minimize the risk of transmission of infectious diseases from health care provider to patient, from patient to patient, and from patient to health care provider, and are informed of the most recent scientifically recognized safeguards for minimizing the risks of transmission.

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### **2570.29. Acts constituting unprofessional conduct**

In addition to other acts constituting unprofessional conduct within the meaning of this chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- (a) Obtain or possess in violation of law, or prescribe, or, except as directed by a licensed physician and surgeon, dentist, optometrist, or podiatrist, to administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.
- (b) Use to an extent or in a manner dangerous or injurious to himself or herself, to any other person, or to the public, or that impairs his or her ability to conduct with safety to the public the practice authorized by his or her license, of any of the following:
  - (1) A controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.
  - (2) A dangerous drug or dangerous device as defined in Section 4022.
  - (3) Alcoholic beverages.
- (c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.
- (d) Be committed or confined by a court of competent jurisdiction for intemperate use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of the commitment or confinement.
- (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital or patient record, or any other record, pertaining to the substances described in subdivision (a) of this section.

### **2570.30. Jurisdiction of board**

The board shall retain jurisdiction to proceed with any investigation, action or disciplinary proceeding against a license, or to render a decision suspending or revoking a license, regardless of the expiration, lapse, or suspension of the license by operation of law, by order or decision of the board or a court of law, or by the voluntary surrender of a license by the licensee.

### **2570.31. Practicing occupational therapy with suspended license**

If a license is suspended, the holder may not practice occupational therapy during the term of suspension. Upon the expiration of the term of suspension, the license shall be reinstated and the holder entitled to resume practice under any remaining terms of the discipline, unless it is established to the satisfaction of the board that the holder of the license practiced in this state during the term of suspension. In this event, the board may, after a hearing on this issue alone, revoke the license.

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### 2570.32. Petition for reinstatement or modification of penalty

- (a) A holder of a license that has been revoked, suspended, or placed on probation, may petition the board for reinstatement or modification of a penalty, including reduction or termination of probation, after a period not less than the applicable following minimum period has elapsed from either the effective date of the decision ordering that disciplinary action, or, if the order of the board or any portion of it was stayed, from the date the disciplinary action was actually implemented in its entirety. The minimum periods that shall elapse prior to a petition are as follows:
- (1) For a license that was revoked for any reason other than mental or physical illness, at least three years.
  - (2) For early termination of probation scheduled for three or more years, at least two years.
  - (3) For modification of a penalty, reinstatement of a license revoked for mental or physical illness, or termination of probation scheduled for less than three years, at least one year.
  - (4) The board may, in its discretion, specify in its disciplinary order a lesser period of time, provided that the period shall not be less than one year.
- (b) The petition submitted shall contain any information required by the board, which may include a current set of fingerprints accompanied by the fingerprinting fee.
- (c) The board shall give notice to the Attorney General of the filing of the petition. The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition, and an opportunity to present both oral and documentary evidence and argument to the board. The petitioner shall at all times have the burden of proof to establish by clear and convincing evidence that he or she is entitled to the relief sought in the petition.
- (d) The board itself shall hear the petition and the administrative law judge shall prepare a written decision setting forth the reasons supporting the decision.
- (e) The board may grant or deny the petition, or may impose any terms and conditions that it reasonably deems appropriate as a condition of reinstatement or reduction of penalty.
- (f) The board may refuse to consider a petition while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole or subject to an order of registration pursuant to Section 290 of the Penal Code.
- (g) No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner.



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### **2570.36. Reporting violations**

If a licensee has knowledge that an applicant or licensee may be in violation of, or has violated, any of the statutes or regulations administered by the board, the licensee shall report this information to the board in writing and shall cooperate with the board in providing information or assistance as may be required.

### **2571. Application of prescribed topical medication by therapist licensed to use physical agent modalities**

- (a) An occupational therapist licensed pursuant to this chapter and approved by the board in the use of physical agent modalities may apply topical medications prescribed by the patient's physician and surgeon, certified nurse-midwife pursuant to Section 2746.51, nurse practitioner pursuant to Section 2836.1, or physician assistant pursuant to Section 3502.1, if the licensee complies with regulations adopted by the board pursuant to this section.
- (b) The board shall adopt regulations implementing this section, after meeting and conferring with the Medical Board of California, the California State Board of Pharmacy, and the Physical Therapy Board of California, specifying those topical medications applicable to the practice of occupational therapy and protocols for their use.
- (c) Nothing in this section shall be construed to authorize an occupational therapist to prescribe medications.

### **17200. Definitions**

As used in this chapter, unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.

### **17500. False or misleading statements**

It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price stated therein, or as so advertised. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both that imprisonment and fine.

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## CALIFORNIA CODE OF REGULATIONS

### ARTICLE 1. GENERAL PROVISIONS

#### **4100. Definitions**

In addition to the definitions found in Business and Professions Code section 2570.2, the following terms are used and defined herein:

- (a) "Code" means the Business and Professions Code.
- (b) "Holder" means the person to whom a license or limited permit has been issued by the board.
- (c) "License" means the authority granted by the board to a person to offer occupational therapy as an occupational therapist or an occupational therapy assistant.
- (d) "Limited permit" means the authority granted by the board to a person to offer occupational therapy services under the direction and appropriate supervision of a licensed occupational therapist.
- (e) "The Occupational Therapy Practice Act" or "Act" means Chapter 5.6 of Division 2, of the Business and Professions Code.

#### **4101. Delegation of Certain Functions**

Except for those powers reserved exclusively to the "agency itself" under the Administrative Procedure Act (section 11500 et seq. of the Government Code), the power and discretion conferred by law upon the Board to order an examination pursuant to section 820 of the Code; receive and file accusations and statements of issues; issue notices of defense; determine the time and place of hearings under Section 11508 of the Government Code; issue subpoenas and subpoenas duces tecum; set and calendar cases for hearing and perform other functions necessary to the dispatch of the business of the Board in connection with proceedings under the provisions of Sections 11500 through 11528 of the Government Code, prior to the hearing of such proceedings, including the authority to approve a settlement agreement for revocation or surrender of a license, or approve an interim license suspension; and the certification and delivery or mailing of copies of decisions under Section 11518 of the Government Code are hereby delegated to and conferred upon the executive officer of the Board.

#### **4102. Filing of Addresses**

- (a) Each person licensed or issued a limited permit by the board, shall report to the board every change of residence address within 30 days after the change, giving both the old and new addresses. In addition to the residence address, the person may provide the board with an alternate address of record. If an alternate address is the person's address of record, he or she may request, in writing, that the residence address not be disclosed to the public.
- (b) Each person licensed or issued a limited permit by the board shall report to the board every change of name within 30 days after the change, giving both the old and new names.
- (c) This section refers to every person who holds an active, inactive, unexpired, suspended license or a limited permit.

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## ARTICLE 2. APPLICATIONS

### 4110. Application

- (a) An application for a license, certificate, or limited permit shall contain the information required by sections 30, 144, 851, 2570.5, 2570.6, 2570.7, 2570.8, 2570.9, 2570.14, and 2570.16 of the Code and Family Code section 17520, accompanied by the appropriate fees.
- (b) For an applicant applying for licensure pursuant to section 2570.15 of the Code, “substantially equal” means that the applicant has successfully completed the academic requirements of an educational program, including the educational program and supervised fieldwork requirements, for an occupational therapist or an occupational therapy assistant that are approved by the board and approved by the foreign credentialing review process of the National Board of Certification in Occupational Therapy (NBCOT), the American Occupational Therapy Certification Board, or the American Occupational Therapy Association.

### 4111. Place of Filing

Applications shall be filed with the board’s principal office.

### 4112. Review of Application

Within thirty (30) days after receipt of an application for a license, certificate, or limited permit, the board shall inform the applicant, in writing, whether the application is complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application.

### 4114. Abandonment of Application

- a) An application for a license shall be deemed abandoned and the application fee forfeited when:
  - (1) The applicant fails to complete the application within two years after it is originally received by the board.
  - (2) The applicant fails to submit the initial license fee within sixty (60) days after the date of notification of eligibility by the board.
- (b) An application for a limited permit shall be deemed abandoned and the application fee forfeited if the applicant fails to complete the application or submit the required fee within sixty (60) days after it is originally received by the board.
- (c) An application submitted subsequent to the abandonment of a previous application shall be treated as a new application.

Article 2.1 sponsored free health care events

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#### 4116. Definitions.

For the purposes of section 901 of the Business and Professions Code:

- (a) "Community-based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.
- (b) "Out-of-state practitioner" means a person who is not licensed in California to engage in the practice of occupational therapy, but who holds a current valid and unrestricted license, registration, or certificate in good standing in another state, district, or territory of the United States to practice as an occupational therapist or occupational therapy assistant.

#### 4117. Sponsoring Entity Registration and Recordkeeping Requirements.

- (a) Registration. A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under section 901 of the Code shall register with the board not later than 90 calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsoring entity shall register with the board by submitting to the board, or its delegatee, a completed "Sponsored Free Health Care Events Registration of Sponsoring Entity Under Business & Professions Code Section 901," Form 901-A (DCA/2011), which is hereby incorporated by reference.
- (b) Determination of Completeness of Form. The board may, by resolution, delegate to the Department of Consumer Affairs the authority to receive and process "Sponsored Free Health Care Events Registration of Sponsoring Entity Under Business & Professions Code Section 901," Form 901-A (DCA/2011) on behalf of the Board. The Board or its delegatee shall inform the sponsoring entity in writing within 15 calendar days of receipt of the form that the form is either complete and the sponsoring entity is registered or that the form is deficient and what specific information or documentation is required to complete the form and be registered. The board or its delegatee shall reject the registration if all of the identified deficiencies have not been corrected at least 30 days prior to the commencement of the sponsored event.
- (c) Recordkeeping Requirements. Regardless of where it is located, a sponsoring entity shall maintain at a physical location in California a copy of all records required by section 901 of the Code as well as a copy of the authorization for participation issued by the board to an out-of-state practitioner. The sponsoring entity shall maintain these records for a period of at least five years after the date on which a sponsored event ended. The records may be maintained in either paper or electronic form. The sponsoring entity shall notify the board at the time of registration as to the form in which it will maintain the records. In addition, the sponsoring entity shall keep a copy of all records required by section 901(g) of the Code at the physical location of the sponsored event until that event has ended. These records shall be available for inspection and copying during the operating hours of the sponsored event upon request of any representative of the board.
- (d) Notice. A sponsoring entity shall place a notice visible to patients at every station where patients are being seen by an occupational therapist or occupational therapy assistant. The notice shall be in at least 48 point type in Arial font and shall include the following statement and information:

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## NOTICE

Occupational therapists and occupational therapy assistants providing health care services at this health fair are either licensed and regulated by the California Board of Occupational Therapy or hold a current valid license from another state and have been authorized to provide health care services in California only at this specific health fair.

For more information:  
CA Board of Occupational Therapy  
1-800-952-5210 or 1-916-263-2294  
[www.bot.ca.gov](http://www.bot.ca.gov)

- (e) Requirement for Prior Board Approval of Out-of-State Practitioner. A sponsoring entity shall not permit an out-of-state practitioner to participate in a sponsored event unless and until the sponsoring entity has received written approval from the board confirming that the out-of-state practitioner has been approved to participate in the event.
- (f) Report. Within 15 calendar days after a sponsored event has concluded, the sponsoring entity shall file a report with the board summarizing the details of the sponsored event. This report may be in a form of the sponsoring entity's choosing, but shall include, at a minimum, the following information:
  - (1) The date(s) of the sponsored event;
  - (2) The location(s) of the sponsored event;
  - (3) The type(s) and general description of all health care services provided at the sponsored event; and
  - (4) A list of each out-of-state practitioner granted authorization pursuant to this article who participated in the sponsored event, along with the license number of that practitioner.

### **4118. Out-of-State Practitioner Authorization to Participate in Sponsored Event.**

- (a) Request for Authorization to Participate. An out-of-state practitioner ("applicant") may request authorization from the board to participate in a sponsored event and provide such health care services at the sponsored event as would be permitted if the applicant were licensed by the board to provide those services. An applicant shall request authorization by submitting to the board a completed "Request for Authorization to Practice Without a California License at a Sponsored Free Health Care Event," Form CBOT 901-B (Rev. 03/2012), which is hereby incorporated by reference, accompanied by a non-refundable, non-transferable processing fee of fifty dollars (\$50). The applicant shall also furnish either a full set of fingerprints or submit a Live Scan inquiry to establish the identity of the applicant and to permit the board to conduct a criminal history record check. The applicant shall pay any costs for furnishing the fingerprints and conducting the criminal history record check. The fingerprint and criminal history check requirement shall apply only to the first application for authorization that is submitted by the applicant, unless an electronic record of the fingerprint submission no longer exists in the California Department of Justice criminal offender record information database.

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(b) Response to Request for Authorization to Participate. Within 20 calendar days of receiving a completed request for authorization, the board shall notify the sponsoring entity or local governmental entity whether that request is approved or denied.

(c) Denial of Request for Authorization to Participate.

(1) The board shall deny a request for authorization to participate if:

- (A) The submitted form is incomplete and the applicant has not responded within 7 calendar days to the board's request for additional information; or
- (B) The applicant has not graduated from a school or program approved by the Accreditation Council for Occupational Therapy Education, its predecessor organization, or otherwise approved by the board; or
- (C) The applicant has not passed the examination administered by the National Board for Certification in Occupational Therapy or its predecessor organization; or
- (D) The applicant has failed to comply with a requirement of this article or has committed any act that would constitute grounds for denial of an application for licensure by the board; or
- (E) The applicant does not possess a current, active, and valid license in good standing.

The term "good standing" means the applicant:

1. Has not been charged with an offense for any act substantially related to the practice for which the applicant is licensed by any public agency;
2. Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed upon the applicant's professional conduct or practice, including any voluntary surrender of license;
3. Has not been the subject of an adverse action nor judgment resulting from the practice for which the applicant is licensed that the board determines constitutes evidence of a pattern of negligence or incompetence.

(F) The board has been unable to obtain a timely report of the results of the criminal history check.

(G) The applicant has been previously disciplined or denied licensure by the California Board of Occupational Therapy.

(2) The board may deny a request for authorization to participate if:

(A) The request is received less than 20 calendar days before the date on which the sponsored event will begin; or

(B) The applicant has been previously denied a request for authorization by the board to participate in a sponsored event; or

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- (C) The applicant has previously had an authorization to participate in a sponsored event terminated by the board.
- (d) Appeal of Denial. An applicant requesting authorization to participate in a sponsored event may appeal the denial of such request by following the procedures set forth in section 4119(d) and/or (e).

#### **4119. Termination of Authorization and Appeal.**

- (a) Grounds for Termination. The board may terminate an out-of-state practitioner's authorization to participate in a sponsored event for any of the following reasons:
- (1) The out-of-state practitioner has failed to comply with any applicable provision of this article, or any applicable practice requirement or regulation of the board.
  - (2) The out-of-state practitioner has committed an act that would constitute grounds for discipline if done by a licensee of the board.
  - (3) The board has received a credible complaint indicating that the out-of-state practitioner is unfit to practice at the sponsored event or has otherwise endangered consumers of the practitioner's services.
- (b) Notice of Termination. The board shall provide both the sponsoring entity or local government entity and the out-of-state practitioner with a written notice of the termination, including the basis for the termination. If the written notice is provided during a sponsored event, the board may provide the notice to any representative of the sponsored event on the premises of the event.
- (c) Consequences of Termination. An out-of-state practitioner shall immediately cease his or her participation in a sponsored event upon receipt of the written notice of termination.

Termination of authority to participate in a sponsored event shall be deemed a disciplinary measure reportable to the national practitioner data bank and the healthcare integrity protection data bank. In addition, the board shall provide a copy of the written notice of termination to the licensing authority of each jurisdiction in which the out-of-state practitioner is licensed.

- (d) Appeal of Termination. An out-of-state practitioner may appeal the board's decision to terminate an authorization in the manner provided by section 901(j)(2) of the Code. The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act.
- (e) Agency Conference Option. In addition to requesting a hearing, the out-of-state practitioner may request an informal conference with the executive officer regarding the reasons for the termination of authorization to participate. The executive officer shall, within 30 days from receipt of the request, hold an informal conference with the out-of-state practitioner. At the conclusion of the informal conference, the executive officer may affirm or dismiss the termination of authorization to participate. The executive officer shall state in writing the reasons for his or her action and mail a copy of his or her findings and decision to the out-of-state practitioner within ten days from the date of the informal conference. The out-of-state practitioner does not waive his or her request for a hearing to contest a termination of authorization by requesting an informal conference. If the termination is dismissed after the informal conference, the request for a hearing shall be deemed to be withdrawn.

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## ARTICLE 3. LICENSE, CERTIFICATE, LIMITED PERMIT, INACTIVE STATUS

### 4120. Renewal of License or Certificate

- (a) The term of a license or certificate shall be two years.
- (1) Unless renewed, a license or certificate issued by the board shall expire at 12 midnight on the last day of the holder's birth month during an odd year if the licensee was born in an odd year or during an even year, if the licensee was born in an even year. The initial license fee shall be prorated from the month of issuance based on the holder's birth month and birth year.
  - (2) To renew an unexpired license or certificate, the holder shall, before the time at which the license or certificate would otherwise expire, apply for renewal, pay the renewal fee., and certify that the licensee's or certificate holder's representations on the renewal form are true, correct, and contain no material omissions of fact, signed under penalty of perjury.
  - (3) The renewal application shall include a statement specifying whether the licensee or certificate holder was convicted of a crime or disciplined by another public agency during the preceding renewal period, and whether the continuing competency requirements have been met if renewing in an active status.
  - (4) For a license or certificate that expires on or after July 1, 2010, as a condition of renewal, an applicant for renewal not previously fingerprinted by the board, or for whom a record of the submission of fingerprints no longer exists, is required to furnish to the Department of Justice, as directed by the board, a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice. Failure to submit a full set of fingerprints to the Department of Justice on or before the date required for renewal of a license or certificate is grounds for discipline by the board. It shall be certified on the renewal form whether the fingerprints have been submitted. This requirement is waived if the license or certificate is renewed in an inactive status, or the licensee or certificate holder is actively serving in the military outside the country.
  - (5) An inactive license or certificate may be renewed.
  - (6) Failure to provide all of the information required by this section renders any application for renewal incomplete and not eligible for renewal.
- (b) A limited permit cannot be renewed.

### 4121. Renewal of Expired License or Certificate; Application; Fees; Effective Date of Renewal

Except as otherwise provide in the Code, a license or certificate which has expired may be renewed at any time within five years after its expiration on filing of an application for renewal, and payment of all accrued and unpaid renewal fees. If a license or certificate is renewed after its expiration, the licensee or certificate holder, as a condition precedent to renewal, shall also pay a delinquency fee. Renewal under this section



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shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license or certificate shall continue in effect through the expiration date provided in section 4120 above which next occurs after the effective date of renewal, when it shall expire if it is not renewed.

#### **4122. Inactive Status**

Upon written request, the board may grant inactive status to a license holder under the following conditions:

- (a) At the time of application for inactive status, the holder's license shall be current and not suspended, revoked, or otherwise punitively restricted by the board.
- (b) The holder of an inactive license shall not engage in any activity for which a license is required.
- (c) An inactive license shall be renewed during the same time period in which an active license is renewed. The holder of an inactive license or certificate need not comply with any continuing education requirement for renewal of an active license.
- (d) The renewal fee for a license in an active status shall apply also for a renewal of a license in an inactive status, unless a lesser renewal fee is specified by the board.
- (e) In order for the holder of an inactive license to restore his or her license to an active status, he or she shall comply with all of the following:
  - (1) Pay the renewal fee.
  - (2) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for a single renewal period of an active license.

#### **4123. Limited Permit**

- (a) To qualify for a limited permit, a person must have applied to the National Board for Certification in Occupational Therapy (NBCOT) to take the licensing examination within four (4) months of completing the education and fieldwork requirements for licensure or certification and request NBCOT provide their examination score report be forwarded to the Board.
  - (1) Upon receipt from NBCOT, the applicant must forward to the Board a copy of the Authorization to Test (ATT) letter.
  - (2) The applicant must provide documentation or other evidence to the Board, to prove that the applicant requested their examination score be sent from NBCOT to the Board, before a limited permit may be issued.
  - (3) A limited permit shall only be valid for three (3) months from the date of issuance by the Board, upon receipt of a failing result, or two (2) weeks following the expiration of the applicants' eligibility to test period, whichever occurs first.

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- (4) The limited permit holder must immediately notify the Board of the results of the examination.
  - (5) The limited permit holder must provide to the Board the name, address and telephone number of his or her employer and the name and license number of his or her supervising occupational therapist (OT). Any change of employer or supervising OT must be provided to the Board, in writing, within 10 days of the change.
- (b) The limited permit will be cancelled, and the fee forfeited, upon notification to the Board or the limited permit holder by the test administrator that the holder failed to pass the first examination.

#### **4125. Representation**

- (a)(1) Unless licensed as an occupational therapist by the Board, a person may not use the professional abbreviations "O.T." or "O.T./L.," or refer to themselves as an "Occupational Therapist" or use any other words, letters, symbols, manner, or means with the intent to represent that the person practices or is authorized to practice occupational therapy in California.
  - (2) Unless licensed as an occupational therapist by the Board, and currently registered with the National Board for Certification in Occupational Therapy (NBCOT), a person may not use the professional abbreviations "O.T.R.," or "O.T.R./L.," or refer to themselves as "Occupational Therapist, Registered," or "Registered Occupational Therapist" or use any other words, letters, symbols, manner, or means, with the intent to represent that the person practices or is authorized to practice occupational therapy in California.
- (b)(1) Unless licensed as an occupational therapy assistant, a person may not use the professional abbreviations "O.T.A.," or "O.T.A./L.," or refer to themselves as an "Occupational Therapy Assistant," or use any other words, letters, symbols, manner, or means with the intent to represent that the person practices or is authorized to practice occupational therapy in California.
  - (2) Unless licensed as an occupational therapy assistant and currently registered with NBCOT, a person may not use the professional abbreviations "C.O.T.A.," or "C.O.T.A./L.," or refer to themselves as "Certified Occupational Therapy Assistant," or use any other words, letters, symbols, manner, or means, with the intent to represent that the person practices or is authorized to practice occupational therapy in California.
- (c) Pursuant to section 2570.18 of the Business and Professions Code, the unauthorized representation by an occupational therapist or an occupational therapy assistant constitutes an unfair business practice and false and misleading advertising under Business and Professions Code section 17200 and 17500, respectively, and a violation of section 4170, the Ethical Standards of Practice.

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

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## ARTICLE 4. FEES

### 4130. Fees

Fees are fixed by the board as follows:

- (a) The initial license or certificate fee shall be prorated pursuant to Section 4120(a)(1) and based on a biennial fee of \$150.
- (b) The fee for a limited permit is \$75.
- (c) For a license that expires on or before December 31, 2006, the annual renewal fee for a license or certificate is \$150.
- (d) For a license that expires on or after January 1, 2007, the renewal fee shall be in accordance with the following schedule:
  - (1) For a license that expires between January 1, 2007, and December 31, 2007, a licensee with an even birth year shall renew for one year and the renewal fee shall be seventy-five dollars (\$75).
  - (2) For a license that expires on or after January 1, 2007, and biennially thereafter, a licensee with an odd birth year shall renew for two years and the renewal fee shall be one hundred fifty dollars (\$150).
  - (3) For a license that expires on or after January 1, 2008, and biennially thereafter, a licensee with an even birth year shall renew for two years and the renewal fee shall be one hundred fifty dollars (\$150).
- (e) The delinquency fee is one-half of the renewal fee.
- (f) The renewal fee for an inactive license or certificate is \$25.
- (g) The fee for a duplicate license is \$15.
- (h) The fees for fingerprint services are those charged by the California Department of Justice and the Federal Bureau of Investigation.

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## ARTICLE 5. CITATIONS

### 4140. Issuance of Citations

- (a) The Board's executive officer, or his or her designee, is authorized to issue citations containing orders of abatement and/or administrative fines pursuant to section 125.9 of the Business and Professions Code against occupational therapists or occupational therapy assistants who have committed any acts or omissions which are in violation of the Occupational Therapy Practice Act or any regulation adopted pursuant thereto.
- (b) The Board's executive officer, or his or her designee, is authorized to issue citations containing orders of abatement, orders of correction, and/or administrative fines pursuant to section 148 of the Business and Professions Code against unlicensed persons who have committed any acts or omissions which are in violation of the Occupational Therapy Practice Act or any regulation adopted pursuant thereto.
- (c) Each citation:
  - (1) shall be in writing,
  - (2) shall describe with particularity the nature of the violation, including specific reference to the provision or provisions of law determined to have been violated,
  - (3) may contain one or more of the following:
    - (A) an assessment of an administrative fine;
    - (B) an order of abatement fixing a reasonable period of time for abatement of the violation;
    - (C) an order of correction,
  - (4) shall be served on the cited person, in person, or by certified and regular mail at the address of record on file with the Board. Citations served by certified and regular mail shall be deemed "served" on the date of mailing.
  - (5) shall inform the cited person that, if he or she desires an informal conference to contest the finding of a violation, the informal conference shall be requested by written notice to the Board within 30 calendar days from service of the citation,
  - (6) shall inform the cited person that, if he or she desires a hearing to contest the finding of a violation, the hearing shall be requested by written notice to the Board within 30 calendar days from service of the citation,
  - (7) shall inform the cited person that failure to pay the fine within 30 calendar days of the date of service, unless the citation is being appealed, may result in disciplinary action being taken by the Board.

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- (d) If a citation is not contested and the fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.
- (e) The sanction authorized under this section shall be separate from, and in addition to, any civil or criminal remedies.

#### **4141. Assessment of Administrative Fines**

- (a) Where citations include an assessment of an administrative fine, the fine shall be not less than \$50 or exceed \$5,000 for each violation. Each violation shall be classified according to the nature of the violation and shall indicate the classification on the face thereof as follows:
- (1) Class "A" violations shall not be less than \$1,001 nor more than \$5,000. Class "A" violations are violations that the executive officer, or his or her designee, has determined involve a person who, while engaged in the practice of occupational therapy, has violated a statute or regulation relating to the Occupational Therapy Practice Act. Class "A" violations are more serious in nature and may include, but are not limited to, violations which resulted in or had significant potential for patient harm and where there is no evidence that revocation or other disciplinary action is required to ensure public safety. Such violations include, but are not limited to, failing to provide direct in-sight supervision of an aide when the aide performed a client related task that resulted in harm to the patient, or failing to provide adequate supervision to an occupational therapy assistant that resulted in harm to the patient, or fraudulent medical billing, or practicing without a current and active license for more than one year, or functioning autonomously as an occupational therapy assistant. A Class "A" violation may be issued to a person who has committed a class "B" violation who has had two or more prior, separate class "B" violations.
  - (2) Class "B" violations shall not be less than \$501 nor more than \$2,500. Class "B" violations are violations that the executive officer, or his or her designee, has determined involve a person who, while engaged in the practice of occupational therapy, has violated a statute or regulation relating to the Occupational Therapy Practice Act. Class "B" violations are less serious in nature and may include, but are not limited to, violations which could have resulted in patient harm. Typically some degree of mitigation will exist. Such violations include, but are not limited to, failing to provide direct in-sight supervision of an aide when the aide performed a client related task that did not result in harm to a patient, or failure to provide adequate supervision to an occupational therapy assistant, limited permit holder, student, or occupational therapy aid, resulting in no patient harm, or providing advanced practice services without board approval, or practicing when the license has been expired or inactive for a period of more than three months but less than one year, or supervising more occupational therapy assistants than allowed by law. A class "B" violation may be issued to a person who has committed a class "C" violation who has two or more prior, separate class "C" violations.

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- (3) Class "C" violations shall not be less than \$50 nor more than \$1,000. Class "C" violations are violations that the executive officer, or his or her designee, has determined involve a person who has violated a statute or regulation relating to the practice of occupational therapy. A class "C" violation is a minor or technical violation which is neither directly or potentially detrimental to patients nor potentially impacts their care. Such violations may include, but are not limited to, practicing when the license has been expired or inactive for a period of three months or less, failing to disclose a conviction or convictions in the application process, or failing to provide a patient or client or the guardian of a patient or client access to their medical records pursuant to Health and Safety Code Section 123110. A class "C" violation may also be issued to a licensee who fails to respond to a written request by the board for additional information relating to a renewal application.
- (4) Class "D" violations shall not be less than \$50 nor more than \$250. Class "D" violations occur when the executive officer, or his or her designee, has determined that an applicant or licensee has failed to provide a change of address within 30 days as required by Section 4102. A class "D" violation is a minor technical violation which is neither directly or potentially detrimental to patients nor potentially impacts their care.
- (b) In determining the amount of an administrative fine, the executive officer, or his or her designee, shall consider the following factors:
- (1) Gravity of the violation,
  - (2) History of previous violations involving the same or similar conduct,
  - (3) Length of time that has passed since the date of the violation,
  - (4) Consequences of the violation, including potential for patient harm,
  - (5) The good or bad faith exhibited by the cited individual,
  - (6) Evidence that the violation was willful,
  - (7) The extent to which the individual cooperated with the board's investigation,
  - (8) The extent to which the individual has remediated any knowledge and/or skills deficiencies,
  - (9) Any other mitigating or aggravating factors.
- (c) In his or her discretion, the executive officer, or his or her designee, may issue an order of abatement without levying a fine for the first violation of any provision set forth in subsection (a).
- (d) The executive officer, or his or her designee, may assess a fine which shall not exceed five thousand dollars (\$5,000) for each violation if the violation involves fraudulent billing.

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#### 4142. Appeal of Citations

- (a) The cited person may, within 30 calendar days of service of the citation, submit a written request for an informal conference with the executive officer.
- (b) In addition to requesting an informal conference described in subsection (a), a cited person may contest a citation, in whole or in part, by submitting a written request for an administrative hearing to the Board within 30 calendar days of service of the citation. Such hearings shall be conducted pursuant to the Administrative Procedure Act, Chapters 4.5 and 5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.
- (c) The request for a hearing to contest a citation is not waived if the executive officer affirms the citation at an informal conference.
- (d) The executive officer, or his or her designee, shall within 30 working days from receipt of a written request for an informal conference, hold an informal conference with the cited person. The 30-day period may be extended by the executive officer for good cause. Following the informal conference, the executive officer, or his or her designee, may affirm, modify, or dismiss the citation, including any fine assessed or order of abatement issued. A written order affirming, modifying, or dismissing the original citation shall be served on the cited person within 30 calendar days from the informal conference. If the order affirms or modifies the original citation, said order shall fix a reasonable period of time for abatement of the violation or payment of the fine.
- (e) If the informal conference results in the modification of the findings of violation(s), the amount of the fine or the order of abatement, the citation shall be considered modified, but not withdrawn. A cited person is entitled to a hearing to contest the modified citation if he or she filed a timely request. A cited person is not entitled to an informal conference to contest a modified citation. If a timely request for a hearing was not filed, the decision in the modified citation shall be considered final.
- (f) If the citation is dismissed after the informal conference, the request for a hearing, if any, shall be deemed withdrawn.
- (g) Submittal of a written request for an informal conference as provided in subsection (a) or an administrative hearing as provided in subsection (b), or both, stays the time period in which to pay the fine.
- (h) If a written request for an informal conference as provided in subsection (a), or a written request for a hearing as provided in subsection (b), or both, is not submitted to the board within 30 calendar days from service of the citation, the cited person is deemed to have waived his or her right to an informal conference and/or administrative hearing.

#### 4143. Compliance with Citations

- (a) If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, he or she may request an extension of time within which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

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- (b) Failure of an applicant to abate the violation or to pay the fine within the time allowed is a ground for denial of licensure or registration.
  - (c) If an informal conference or hearing is not requested, payment of the fine shall not constitute an admission of the violation charged and payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

**4144. Disciplinary Guidelines. [Renumbered to 4147]**

**4145. Record Retention.**

- (a) Every citation, once it has been resolved by payment of the administrative fine and/or compliance with the order of abatement, shall be purged five (5) years from the date of resolution, except for citations referenced in subsection (b).
- (b) No citation shall be purged if issued pursuant to CCR Section 4140(b), and no citation shall be purged for any citation issued for unlicensed practice.

**ARTICLE 5.5. STANDARDS RELATED TO DENIAL, DISCIPLINE, AND REINSTATEMENT OF LICENSES**

**4146. Definitions.**

- (a) "Incompetence" is the lack of possession of or the failure to exercise that degree of knowledge, learning, skill, ability, care or experience ordinarily possessed and exercised by a competent licensed professional.
- (b) "Negligence" is a departure from the standard of care, which under similar circumstances, would have been ordinarily exercised by a competent licensed professional.
- (c) "Gross negligence" is an extreme departure from the standard of care, which under similar circumstances, would have been ordinarily exercised by a competent licensed professional.
- (d) For the purposes of denial, suspension, or revocation of a license, a crime or act shall be considered to be "substantially related to the qualifications, functions or duties of an occupational therapy practitioner," if it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license or in a manner inconsistent with the public health, safety, or welfare. Such crimes or acts include, but are not limited to, those involving the following:
  - (1) Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of or conspiring to violate any provision or term of the Occupational Therapy Practice Act.
  - (2) Fiscal dishonesty, theft or larceny.
  - (3) An incident involving controlled substances or alcohol to the extent that practice is impaired or a threat to the health or safety of themselves or others.



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- (4) Conviction of a crime involving harassment or stalking (as defined by the Penal Code).
  - (5) Conviction of a crime involving lewd conduct, prostitution or solicitation thereof, or pandering and/or indecent exposure (as defined by the Penal Code).
  - (6) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.
  - (7) Failure to comply with any mandatory reporting requirements.
  - (8) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

#### **4147. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines.**

- (a) In reaching a decision on a disciplinary action under the administrative adjudication provisions of the Administrative Procedure Act (Government Code 11400 et seq.), the Board shall comply with the Uniform Standards Related to Substance Abuse and Disciplinary Guidelines[July 2011] which are hereby incorporated by reference. Deviation from these disciplinary guidelines and orders, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such deviation, e.g., the presence of mitigating factors; age of the case; evidentiary problems. Neither the board nor an administrative law judge may impose any conditions or terms of probation that are less restrictive than the Uniform Standards Related to Substance Abuse.
- (b) All probationers shall submit and cause each health care employer to submit quarterly reports to the Board. The reports, "Quarterly Written Report (4/2011)" and "Work Performance Evaluation (02/2011)" shall be obtained from the Board and are hereby incorporated by reference.

#### **4148. Mental or Physical Examination of Fitness for Licensure.**

In addition to any other requirements for licensure, whenever it appears that an applicant for a license may be unable to practice occupational therapy safely because the applicant's ability to practice may be impaired due to mental illness or physical illness affecting competency, the board may require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the board. The board shall pay the full cost of such examination. An applicant's failure to comply with the requirement shall render his or her application incomplete.

The report of the evaluation shall be made available to the applicant.

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#### 4149. Other Actions Constituting Unprofessional Conduct.

In addition to the conduct described in Section 2570.28(a) and 2570.29 of the Code, “unprofessional conduct” also includes, but is not limited to, the following:

- (a) Including or permitting to be included any of the following provisions in an agreement to settle a civil dispute arising from the licensee’s practice, whether the agreement is made before or after the filing of an action:
  - (1) A provision that prohibits another party to the dispute from contacting, cooperating, or filing a complaint with the board.
  - (2) A provision that requires another party to the dispute to withdraw a complaint the party has filed with the board.
- (b) Failure to provide to the board, as directed, lawfully requested certified copies of documents within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the certified documents with this time period for good cause, including, but not limited to, physical inability to access the records in the time allowed due to illness or travel. This subsection shall not apply to a licensee who does not have access to, and control over, medical records.
- (c) Failure to cooperate and participate in any board investigation pending against the licensee. This subsection shall not be construed to deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privilege. This subsection shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee’s practice. Any exercise by a licensee of any constitutional or statutory privilege shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.
- (d) Failure to report to the board within 30 days any of the following:
  - (1) The bringing of an indictment or information charging a felony against the licensee.
  - (2) The arrest of the licensee.
  - (3) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no contest, of any felony or misdemeanor.
  - (4) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.
- (e) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

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#### **4149.1. Revocation for Sexual Contact.**

Notwithstanding the disciplinary guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, which is defined as sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse, with a patient, or has committed an act or been convicted of a sex offense as defined in Section 44010 of the Education Code, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

### **ARTICLE 6. ADVANCED PRACTICES**

#### **4150. Definitions**

For the purpose of this article:

- (a) "ACOTE" means the Accreditation Council for Occupational Therapy Education.
- (b) "Post professional education and training" means education and training obtained subsequent to the qualifying degree program or beyond current ACOTE standards for the qualifying degree program.
- (c) "Contact hour" means sixty (60) minutes of coursework or classroom instruction.
- (d) "Semester unit" means fifteen (15) contact hours.
- (e) "Quarter unit" means ten (10) contact hours.
- (f) "Rehabilitation of the hand, wrist, and forearm" as used in Code section 2570.2(l) refers to occupational therapy services performed as a result of surgery or injury to the hand, wrist, or forearm.
- (g) "Upper extremity" as used in Code section 2570.3(e) includes education relating to the hand, wrist, or forearm.
- (h) "Swallowing" as used in Code section 2570.3 is the passage of food, liquid, or medication through the pharyngeal and esophageal phases of the swallowing process.
- (i) "Instrumental evaluation" is the assessment of any aspect of swallowing using imaging studies that include, but are not limited to, endoscopy and videofluoroscopy
  - (1) "Endoscopic evaluation of swallowing" or "endoscopy" is the process of observing structures and function of the swallowing mechanism to include the nasopharynx, oropharynx, and hypopharynx.
  - (2) "Videofluoroscopic swallowing study" or "videofluoroscopy" is the fluoroscopic recording and videotaping of the anatomy and physiology of the oral cavity, pharynx, and upper esophagus using a variety of bolus consistencies to assess swallowing function. This procedure may also be known as videofluorography, modified barium study, oral-pharyngeal motility study and videoradiography.

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### **4151. Hand Therapy**

- (a) Hand therapy services may be performed only when an occupational therapist has demonstrated to the Board that he or she has met the post professional education and training requirements established by this section as follows:
  - (1) Education: Completion of 45 contact hours in the subjects listed in Code section 2570.3(e), including 30 hours specifically relating to the hand, wrist, and forearm.
  - (2) Training: Completion of 480 hours of supervised on-the-job training, clinical internship or affiliation, which may be paid or voluntary, pertaining to hand therapy.
- (b) An occupational therapist providing hand therapy services using physical agent modalities must also comply with the requirements of section 4152. A maximum of 8 contact hours and 60 hours of supervised on-the-job training, clinical internship or affiliation, paid or voluntary, completed under section 4152 will be credited toward the requirements of this section.
- (c) An occupational therapist may provide only those hand therapy services he or she is competent to perform.

### **4152. Physical Agent Modalities**

- (a) Physical agent modalities may be used only when an occupational therapist has demonstrated to the Board that he or she has met the post professional education and training requirements established by this section as follows:
  - (1) Education: Completion of 30 contact hours in the subjects listed in Code section 2570.3(f).
  - (2) Training: Completion of 240 hours of supervised on-the-job training, clinical internship or affiliation, which may be paid or voluntary, pertaining to physical agent modalities.
- (b) An occupational therapist may use only those physical agent modalities he or she is competent to use.

#### **4152.1. Use of Topical Medications**

- (a) As used in this section, “topical medications” means medications applied locally to the skin or underlying tissue where such medications require a prescription or order under federal or state law. The following medications are applicable to the practice of occupational therapy and may be used by an occupational therapist:
  - (1) Bacteriocidal agents;
  - (2) Debriding agents;
  - (3) Topical anesthetic agents;
  - (4) Anti-inflammatory agents;
  - (5) Antispasmodic agents; and
  - (6) Adrenocortico-steroids.

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(b) An occupational therapist shall apply or administer topical medications in accordance with this subsection.

- (1) Any topical medication applied or administered shall have been ordered on a specific or standing basis by a practitioner legally authorized to order or prescribe such medication pursuant to Business and Professions Code section 2571(a).
- (2) An occupational therapist may administer a topical medication by the use of a physical agent modality, only if the occupational therapist is approved by the Board in the advanced practice area of physical agent modalities.
- (3) An occupational therapist shall follow written protocols in applying or administering topical medications. The protocols shall:
  - (A) Be prepared by the facility within which the topical medications are being applied or administered;
  - (B) Be approved by the medical director or equivalent of the facility;
  - (C) Include a description of each medication, its actions, its indications and contraindications, and the proper procedure and technique for application;
  - (D) Require that the administration be consistent with the manufacturer's guidelines for any equipment to be used in the administration of the topical medication; and
  - (E) Be based on research and evidence-based practice, pharmaceutical standards of practice and known desired outcomes.
- (4) Supervision of the application or administration of topical medications by an occupational therapy assistant under this section shall be in accordance with Article 9.

(c) Under no circumstance does this section authorize an occupational therapist or occupational therapist assistant to administer a medication via injection.

#### **4153. Swallowing Assessment, Evaluation, or Intervention**

- (a) The role of an occupational therapist in instrumental evaluations is to observe structure and function of the swallowing mechanism in order to assess swallowing capability and determine swallowing interventions. The occupational therapist may not perform the physically invasive components of the instrumental evaluation.
- (b) Swallowing assessment, evaluation or intervention may be performed only when an occupational therapist has demonstrated to the Board that he or she has met the post professional education and training requirements established by this section as follows:
  - (1) Education: Completion of 45 contact hours in the following subjects:

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- (A) Anatomy, physiology and neurophysiology of the head and neck with focus on the structure and function of the aerodigestive tract;
  - (B) The effect of pathology on the structures and functions of the aerodigestive tract including medical interventions and nutritional intake methods used with patients with swallowing problems;
  - (C) Interventions used to improve pharyngeal swallowing function.
- (2) Training: Completion of 240 hours of supervised on-the-job training, clinical internship or affiliation, which may be paid or voluntary, pertaining to swallowing assessment, evaluation or intervention. An occupational therapist in the process of completing the training requirements of this section may practice swallowing assessment, evaluation or intervention under the supervision of an occupational therapist who has been approved under this article, a speech language pathologist with expertise in this area, or a physician and surgeon.
- (c) An occupational therapist may provide only those swallowing assessment, evaluation or intervention services he or she is competent to perform.

#### **4154. Post Professional Education and Training**

- (a) Post professional education courses shall be obtained at any of the following:
- (1) College or university degree programs accredited or approved by ACOTE;
  - (2) College or university degree programs accredited or approved by the Commission on Accreditation in Physical Therapy Education;
  - (3) Colleges or universities with Speech and Hearing Programs accredited or approved by the Council on Academic Accreditation in Audiology and Speech-Language Pathology;
  - (4) Any approved provider. To be approved by the Board the provider shall submit the following:
    - (A) A clear statement as to the relevance of the course to the advanced practice area.
    - (B) Information describing, in detail, the depth and breadth of the content covered (e.g., a course syllabus and the goals and objectives of the course) particularly as it relates to the advanced practice area.
    - (C) Information that shows the course instructor's qualifications to teach the content being taught (e.g., his or her education, training, experience, scope of practice, licenses held, and length of experience and expertise in the relevant subject matter), particularly as it relates to the advanced practice area.
    - (D) Information that shows the course provider's qualifications to offer the type of course being offered (e.g., the provider's background, history, experience, and similar courses previously offered by the provider), particularly as it relates to the advanced practice area; or

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- (5) A provider that has not been approved by the Board, if the applicant occupational therapist demonstrates that the course content meets the subject matter requirements set forth in sections 2570.3(e) or 2570.3(f) of the Code, or section 4153 of these regulations, and submits the following:
- (A) Information describing, in detail, the depth and breadth of the content covered (e.g., a course syllabus and the goals and objectives of the course) particularly as it relates to the advanced practice area.
  - (B) Information that shows the course instructor's qualifications to teach the content being taught (e.g., his or her education, training, experience, scope of practice, licenses held, and length of experience and expertise on the relevant subject matter), particularly as it relates to the advanced practice area.
- (b) Post professional training shall be supervised which means, at a minimum:
- (1) The supervisor and occupational therapist have a written agreement, signed and dated by both parties prior to accruing the supervised experience, outlining the plan of supervision and training in the advanced practice area. The level of supervision is determined by the supervisor whose responsibility it is to ensure that the amount, degree, and pattern of supervision is consistent with the knowledge, skill and ability of the occupational therapist, and appropriate for the complexity of client needs and number of clients for whom the occupational therapist is providing advanced practice services.
  - (2) The supervisor is readily available in person or by telecommunication to the occupational therapist while the therapist is providing advanced practice services.
  - (3) The supervisor does not have a co-habitative, familial, intimate, business, excluding employment relationships, or other relationship that could interfere with professional judgment and objectivity necessary for effective supervision, or that violates the Ethical Standards of Practice, pursuant to section 4170.
- (c) Any course instructor providing post-professional education under Section 4154(a)(4) or (5) who is a health care practitioner as defined in Section 680 of the code shall possess an active, current and unrestricted license.
- (d) Post professional education and training must be completed within the five years immediately preceding the application for approval in each advanced practice area.

#### **4155. Application for Approval in Advanced Practice Areas**

In order to provide any of the advanced practice services set forth in Code section 2570.3(d), an occupational therapist shall apply to the Board and receive approval in that advanced practice area.

- (a) To apply for approval, an occupational therapist shall submit to the Board an application as specified in subsections (1), (2), or (3), along with the required documentation.

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- (1) Applicants seeking approval in the area of Hand Therapy shall submit the Application for Advanced Practice Approval in Hand Therapy (Form APH, Rev. 10/09), hereby incorporated by reference;
  - (2) Applicants seeking approval in the use of physical agent modalities shall submit the Application for Advanced Practice Approval in Physical Agent Modalities (Form APP, Rev. 07/11), hereby incorporated by reference;
  - (3) Applicants seeking approval in the area of Swallowing Assessment, Evaluation, or Intervention shall submit the Application for Advanced Practice Approval in Swallowing (Form APS, Rev. 10/09), hereby incorporated by reference;
- (b) The documentation must include the following:
- (1) Documented proof of attendance and completion of each course (i.e., certificate of completion or transcript).
  - (2) Evidence of the number of contact hours completed for each course for courses that are not Board approved.
  - (3) Outline or syllabus of each course for courses that are not Board approved.
  - (4) Information describing, in detail, the depth and breadth of the content covered (e.g., a course syllabus and the goals and objectives of the course) as it relates to the advanced practice area.
  - (5) Resume or credentials of each instructor for courses that are not Board approved.
  - (6) Verification of completion of supervised on-the-job training, clinical internship or affiliation reflecting the nature of the training and the number of hours. Such verification must be signed by the supervisor(s) under penalty of perjury.
- (c) An advanced practice application not completed within six months of receipt or notification of deficiency, whichever is later, shall be deemed abandoned.
- (d) An application submitted subsequent to the abandonment of a previous application shall be treated as a new application.



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## ARTICLE 7. CONTINUING COMPETENCY REQUIREMENTS

### 4160. Definitions

For the purpose of this section:

- (a) “Continuing competency” means an ongoing process in which an occupational therapy practitioner maintains the knowledge, skills, and abilities necessary to perform his or her professional responsibilities.
- (b) “Continuing education unit (CEU)” is an assigned unit of measure for each professional development activity.
- (c) “Professional development activity” means an activity (except participation in a course of study leading to an entry-level academic degree or normal and routine employment responsibilities) engaged in subsequent to professional education, primarily concerned with maintaining and increasing the occupational therapy practitioner’s knowledge, skill and ability.
- (d) “Professional development unit (PDU)” is an assigned unit of measure for each professional development activity.
- (e) “Level II occupational therapy and occupational therapy assistant students” are those participating in the fieldwork requirements of the entry-level academic degree program.

### 4161. Continuing Competency

- (a) Effective January 1, 2006, each occupational therapy practitioner renewing a license or certificate under Section 2570.10 of the Code shall submit evidence of meeting continuing competency requirements by having completed, during the preceding renewal period, twelve (12) PDUs for each twelve month period, acquired through participation in professional development activities.
  - (1) One (1) hour of participation in a professional development activity qualifies for one PDU;
  - (2) One (1) academic credit equals 10 PDUs;
  - (3) One (1) Continuing Education Unit (CEU) equals 10 PDUs.
- (b) Professional development activities acceptable to the board include, but are not limited to, programs or activities sponsored by the American Occupational Therapy Association (AOTA) or the Occupational Therapy Association of California; post-professional coursework completed through any approved or accredited educational institution that is not part of a course of study leading to an academic degree; or otherwise meet all of the following criteria:
  - (1) The program or activity contributes directly to professional knowledge, skill, and ability;
  - (2) The program or activity relates directly to the practice of occupational therapy; and
  - (3) The program or activity must be objectively measurable in terms of the hours involved.

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

- (1) Involvement in structured special interest or study groups with a minimum of three (3) participants. Three (3) hours of participation equals one (1) PDU.
- (2) Structured mentoring with an individual skilled in a particular area. For each 20 hours of being mentored, the practitioner will receive three (3) PDUs.
- (3) Structured mentoring of a colleague to improve his/her skills. Twenty (20) hours of mentoring equals three (3) PDUs.
- (4) Supervising the fieldwork of Level II occupational therapist and occupational therapy assistant students. For each 60 hours of supervision, the practitioner will receive .5 PDU.
- (5) Publication of an article in a non-peer reviewed publication. Each article equals five (5) PDUs.
- (6) Publication of an article in a peer-reviewed professional publication. Each article equals 10 PDUs.
- (7) Publication of chapter(s) in occupational therapy or related professional textbook. Each chapter equals 10 PDUs.
- (8) Making professional presentations at workshops, seminars and conferences. For each hour, the practitioner will receive two (2) PDUs.
- (9) Attending a meeting of the California Board of Occupational Therapy. Each meeting attended equals two (2) PDUs, with a maximum of six (6) PDUs earned per renewal period.
- (10) Attending board outreach activities. Each presentation attended equals two (2) PDUs, with a maximum of four (4) PDUs earned per renewal period.

(d) Partial credit will not be given for the professional development activities listed in subsection (c).

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

(f) Of the total number of PDUs required for each renewal period, a minimum of one half of the units must be directly related to the delivery of occupational therapy services.

- (1) The delivery of occupational therapy services may include: models, theories or frameworks that relate to client/patient care in preventing or minimizing impairment, enabling function within the person/environment or community context. Other activities may include, but are not limited to, occupation based theory assessment/interview techniques, intervention strategies, and community/environment as related to one's practice.

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

- (1) Thirty-seven (37) PDUs directly related to the delivery of occupational therapy services;
- (2) One (1) PDU related to occupational therapy scope of practice;
- (3) One (1) PDU related to occupational therapy framework;
- (4) One (1) PDU related to ethical standards of practice for an occupational therapist.

#### **4162. Completion and Reporting Requirements**

(a) The occupational therapy practitioner shall record the following information for each activity on the renewal form:

- (1) the date each course or activity was completed;
- (2) the provider, course number, and course title, if applicable;
- (3) a description of the course; and
- (4) the total number of PDUs.

(b) Records showing participation in each professional development activity must be maintained by the occupational therapy practitioner for four (4) years following the renewal period.

(c) A maximum of three (3) PDUs in excess of the required 12 PDUs may be carried over to the next renewal period for those practitioners renewing after one year. A maximum of six (6) PDUs in excess of the required 24 PDUs may be carried over to the next renewal period for those practitioners renewing after two years.

(d) Any occupational therapy practitioner who is unable to provide records documenting completion of the continuing competency requirements is subject to citation and/or administrative fine or disciplinary action.

#### **4163. Exemption from Continued Competency Requirements**

At the time of applying for renewal of a license, an occupational therapy practitioner may request an exemption from the continuing competency requirements. The renewal application must provide the following information:

(a) Evidence that during the renewal period prior to the expiration of the license, the practitioner was residing in another country for one year or longer, reasonably preventing completion of the continuing competency requirements; or

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- (b) Evidence that the practitioner was absent from California because of military service for a period of one year or longer during the renewal period, preventing completion of the continuing competency requirements; or
  - (c) Evidence that the practitioner should be exempt from the continuing competency requirements for reasons of health or other good cause which include:
    - (1) Total physical and/or mental disability for one (1) year or more during the renewal period and the inability to work during this period has been verified by a licensed physician or surgeon or licensed clinical psychologist; or
    - (2) Total physical and/or mental disability for one (1) year or longer of an immediate family member for whom the practitioner had total responsibility, as verified by a licensed physician or surgeon or licensed clinical psychologist.

## ARTICLE 8. ETHICAL STANDARDS OF PRACTICE

### 4170. Ethical Standards of Practice

A violation of any ethical standard of practice constitutes grounds for disciplinary action. Every person who holds a license, certificate or limited permit issued by the board shall comply with the following ethical standards of practice:

- (a) Occupational therapy practitioners shall comply with state and federal laws pertaining to discrimination.
- (b) Occupational therapy practitioners shall take reasonable precautions to avoid imposing or inflicting harm upon the client or to his or her property.
  - (1) Occupational therapy practitioners shall not exploit clients in any manner.
  - (2) Occupational therapy practitioners shall avoid relationships or activities that interfere with professional judgment and objectivity.
- (c) Occupational therapy practitioners shall collaborate with clients, caretakers or other legal guardians in setting goals and priorities throughout the intervention process.
  - (1) Occupational therapy practitioners shall fully inform the client of the nature, risks, and potential outcomes of any interventions.
  - (2) Occupational therapy practitioners shall obtain informed consent from clients involved in research activities and indicate in the medical record that they have fully informed the client of potential risks and outcomes.
  - (3) Occupational therapy practitioners shall respect the client's right to refuse professional services or involvement in research or educational activities.
  - (4) Occupational therapy practitioners shall maintain patient confidentiality unless otherwise mandated by local, state or federal regulations.

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- (d) Occupational therapy practitioners shall perform occupational therapy services only when they are qualified by education, training, and experience to do so.
- (1) Occupational therapy practitioners shall hold the appropriate credentials for the services they provide.
  - (2) Occupational therapy practitioners shall refer to or consult with other service providers whenever such a referral or consultation is necessary for the care of the client. Such referral or consultation should be done in collaboration with the client.
- (e) Occupational therapy practitioners shall comply with the Occupational Therapy Practice Act, the California Code of Regulations, and all other related local, state, and federal laws.
- (f) Occupational therapy practitioners shall provide accurate information about occupational therapy services.
- (1) Occupational therapy practitioners shall accurately represent their credentials, qualifications, education, experience, training, and competence.
  - (2) Occupational therapy practitioners shall disclose any professional, personal, financial, business, or volunteer affiliations that may pose a conflict of interest to those with whom they may establish a professional, contractual, or other working relationship.
  - (3) Occupational therapy practitioners shall refrain from using or participating in the use of any form of communication that contains false, fraudulent, deceptive statements or claims.
- (g) Occupational therapy practitioners shall report to the Board acts constituting grounds for discipline as defined in Section 2570.28 of the Occupational Therapy Practice Act.

#### **4175. Minimum Standards for Infection Control**

- (a) Occupational Therapists and Occupational Therapy Assistants must comply with all applicable Standard Precautions.
- (b) Standard Precautions combine the major features of Universal Precautions and Body Substance Isolation and are based on the principle that all blood, body fluids, secretions, excretions (except sweat), non-intact skin, and mucus membranes may contain transmissible infectious agents. All contact with these substances is treated as if known to be infectious for Human Immunodeficiency Virus (HIV), Hepatitis, and other transmissible infectious agents. Standard Precautions are also intended to protect patients/clients by ensuring that occupational therapy personnel do not carry infectious agents to patients/clients on their hands or via equipment used during delivery of occupational therapy services. Standard Precautions must be used in the care of all patients/clients, regardless of suspected or confirmed infection status, in all settings in which occupational therapy services are delivered. Standard Precautions include:

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(1) Proper Hand Hygiene

- (A) Avoid unnecessary touching of face, nose and surfaces in close proximity to the patient to prevent both contamination of clean hands from environmental surfaces and transmission of pathogens from contaminated hands to surfaces, during the delivery of healthcare.
- (B) When hands are visibly soiled, hands shall be washed with soap and water for a 20-second scrub and 10- second rinse or an antimicrobial hand wash.
- (C) If hands are not visibly soiled, an acceptable alternative of hand decontamination is with an alcohol-based hand rub (except in cases of spores, as described below).
- (D) Hands shall be washed or decontaminated as follows:
  - (1) Before having direct contact with any patient/client.
  - (2) After contact with blood, body fluids or excretions, mucous membranes, non-intact skin, or wound dressings.
  - (3) After contact with a patient's/client's intact skin (e.g., when assisting with bathing/dressing or lifting a patient).
  - (4) If hands will be moving from a contaminated-body site to a clean-body site during patient/client care.
  - (5) After contact with inanimate objects (including medical equipment) in the immediate vicinity of the patient/client.
  - (6) After removing gloves.
- (E) Artificial fingernails or extenders shall not be worn if duties include direct contact with patients at high risk for infection and associated adverse outcomes (e.g., those in ICUs or special care units).
- (F) After each patient/client session ends, a practitioner shall wash hands with soap and water or an antimicrobial hand wash if contact with spores (e.g., *C. difficile* or *Bacillus anthracis*) is likely to have occurred. The physical action of washing and rinsing hands under such circumstances is required because alcohols, chlorhexidine, iodophors, and other antiseptic agents have poor activity against spores.

(2) Use of Personal Protective Equipment

- (A) The use of personal protective equipment (PPE) includes observing the following principles of use at all times:
  - (1) Wear gloves, gowns and mouth/nose/eye protection when the nature of the anticipated patient/client interaction indicates that contact with blood, body fluids, secretions or excretions may occur. Select masks, goggles, face shields and combinations of each according to the need anticipated by the task performed.

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- (2) Prevent contamination of clothing and skin during the process of removing PPE.
  - (3) Before leaving the patient's/client's room or service area, remove and discard PPE.
- (B) PPE includes the use of disposable medical examination gloves, which must be worn when it can be reasonably anticipated that contact with blood or other potentially infectious materials, mucus membranes, non-intact skin, or potentially contaminated intact skin (e.g. of a patient/client incontinent of stool or urine) could occur.
- (1) Non-sterile gloves may be used for all non-surgical procedures.
  - (2) Wear disposable gloves for cleaning the environment or equipment.
  - (3) Wear gloves with fit and durability appropriate to the task.
  - (4) Remove gloves after contact with a patient/client or the surrounding environment (including equipment) using proper technique to prevent hand contamination.
  - (5) Do not wear the same pair of gloves for the care of more than one patient/client.
  - (6) Do not wash gloves for the purpose of reuse since this practice has been associated with the transmission of pathogens.
  - (7) Change gloves during patient/client care if the hands will move from a contaminated body-site to a clean body-site.
- (C) PPE includes wearing a gown that is appropriate to the task to protect skin and prevent soiling or contamination of clothing during procedures and patient/client-care activities when contact with blood, body fluids, secretions, excretions is anticipated. Proper use of a gown includes the following:
- (1) Remove gown and perform hand hygiene before leaving the patient's/client's environment. Place gown in an appropriately-designated area or container for storage, washing, decontamination or disposal.
  - (2) Do not reuse gowns, even for repeated contacts with the same patient.
  - (3) Routine donning of gowns upon entrance into high risk units (e.g. ICU, NICU) is not indicated.
- (D) Personal protective equipment does not include lab coats or uniforms, including scrubs. Lab coats and uniforms shall be changed or washed at least daily, or more frequently if visibly soiled.

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- (E) During an aerosol-generating procedure (e.g. suctioning of the respiratory tract if not using in-line suction catheters) in a patient who is not suspected of being infected with an agent for which respiratory protection is otherwise recommended (e.g. M. tuberculosis, SARS or hemorrhagic fever viruses), wear one of the following: a face shield that fully covers the front and sides of the face, a mask with an attached shield, or a mask and goggles, in addition to gloves and a gown.
- (F) Face shields and protective eyewear must be washed and disinfected between each patient or when visibly soiled.
- (3) Respiratory hygiene/cough etiquette. Measures shall be implemented to contain respiratory secretions and to prevent droplet and fomites transmission of respiratory pathogens, especially during seasonal outbreaks of viral respiratory infections such as influenza, RSV, adenovirus, or parainfluenza virus.
- (A) A practitioner shall provide tissues and, where practical, use no-touch receptacles (e.g. foot-pedal operated lid or open plastic-lined waste basket) for disposal of tissues.
- (B) A practitioner shall wear a mask during all patient/client interactions if the practitioner has any symptoms of respiratory infection.
- (4) Patient/client care equipment, instruments, devices, and environment of care.
- (A) Equipment, instruments, and devices include, but are not limited to: toys and play equipment, shared craft supplies, computers, multi-use electronic equipment, transfer belts, bandage scissors, debridement utensils, patient lifting and/or transporting devices, commode chairs, bath/shower chairs and benches, and dressing equipment.
- (B) A practitioner shall follow employer-established policies and procedures for containing, transporting, handling and cleaning patient/client-care equipment and instruments/devices that may be contaminated with blood or body fluids.
- (C) In the absence of employer-established policies and procedures for containing, transporting, handling and cleaning patient/client-care equipment and instruments/devices that may be contaminated with blood or body fluids, practitioners are responsible for establishing and following policies and procedures for containing, transporting, handling and cleaning patient/client-care equipment and instruments/devices that may be contaminated with blood or body fluids. Such policies and procedures must include the use of PPE (e.g. gloves and gowns and masks, worn according to the level of anticipated contamination.
- (D) A Practitioner shall follow employer-established policies and procedures for routine and targeted cleaning of environmental surfaces as indicated by the service-delivery setting, the level of patient/client contact and degree of soiling.



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- (E) In the absence of employer-established policies and procedures for routine and targeted cleaning of environmental surfaces as indicated by the service-delivery setting, the level of patient/client contact and degree of soiling, practitioners are responsible for establishing and following said policies and procedures for routine and targeted cleaning of environmental surfaces.
- (F) A Practitioner shall clean and disinfect surfaces that are likely to be contaminated with pathogens, especially those in close proximity to the patient and frequently touched surfaces in the patient care environment. The practitioner is personally responsible for cleaning of shared items and shared surfaces in the occupational therapy setting such as treatment tables, toys, bandage scissors, shared bathing and toileting equipment, and wound care areas, in the absence of an organization-wide housekeeping or environmental cleaning organization.
- (G) Select equipment that can be easily cleaned and disinfected. Do not use fabric-based equipment (e.g. chairs, stuffed toys, furry toys, transfer belts) if it will likely be contaminated by body fluids.
- (c) Practitioners shall comply with all minimum standards for infection control practices and comply with local, state, or federal recommendations, issued in response to an emergency health and safety situation.

## ARTICLE 9. SUPERVISION STANDARDS

### 4180. Definitions

In addition to the definitions found in Business and Professions Code sections 2570.2 and 2570.3 the following terms are used and defined herein:

- (a) "Client related tasks" means tasks performed as part of occupational therapy services rendered directly to the client.
- (b) "Level I student" means an occupational therapy or occupational therapy assistant student participating in activities designed to introduce him or her to fieldwork experiences and develop an understanding of the needs of clients.
- (c) "Level II student" means an occupational therapy or occupational therapy assistant student participating in delivering occupational therapy services to clients with the goal of developing competent, entry-level practitioners.
- (d) "Level II fieldwork educator" means a licensed occupational therapist or occupational therapy assistant who has a minimum of one year of practice experience following issuance of a license, or other authorization to practice issued by another state's regulatory board
- (e) "Non-client related tasks" means clerical, secretarial and administrative activities; transportation of patients/clients; preparation or maintenance of treatment equipment and work area; taking care of patient/client personal needs during treatments; and assisting in the construction of adaptive equipment and splints.
- (f) "Periodic" means at least once every 30 days.

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#### **4181. Supervision Parameters**

- (a) Appropriate supervision of an occupational therapy assistant includes, at a minimum:
  - (1) The weekly review of the occupational therapy plan and implementation and periodic onsite review by the supervising occupational therapist. The weekly review shall encompass all aspects of occupational therapy services and be completed by telecommunication or onsite.
  - (2) Documentation of the supervision, which shall include either documentation of direct client care by the supervising occupational therapist, documentation of review of the client's medical and/or treatment record and the occupational therapy services provided by the occupational therapy assistant, or co-signature of the occupational therapy assistant's documentation.
  - (3) The supervising occupational therapist shall be readily available in person or by telecommunication to the occupational therapy assistant at all times while the occupational therapy assistant is providing occupational therapy services.
  - (4) The supervising occupational therapist shall provide periodic on-site supervision and observation of client care rendered by the occupational therapy assistant.
- (b) The supervising occupational therapist shall at all times be responsible for all occupational therapy services provided by an occupational therapy assistant, a limited permit holder, a student or an aide. The supervising occupational therapist has continuing responsibility to follow the progress of each client, provide direct care to the client, and assure that the occupational therapy assistant, limited permit holder, student or aide do not function autonomously.
- (c) The level of supervision for all personnel is determined by the supervising occupational therapist whose responsibility it is to ensure that the amount, degree, and pattern of supervision are consistent with the knowledge, skill and ability of the person being supervised.
- (d) Occupational therapy assistants may supervise:
  - (1) Level I occupational therapy students;
  - (2) Level I and Level II occupational therapy assistant students; and
  - (3) Aides providing non-client related tasks.
- (e) The supervising occupational therapist shall determine that the occupational therapy practitioner possesses a current license or permit to practice occupational therapy prior to allowing the person to provide occupational therapy services.

#### **4182. Treatments Performed by Occupational Therapy Assistants**

- (a) The supervising occupational therapist shall determine the occupational therapy treatments the occupational therapy assistant may perform. In making this determination, the supervising occupational therapist shall consider the following:

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- (1) the clinical complexity of the patient/client;
  - (2) skill level of the occupational therapy assistant in the treatment technique; and
  - (3) whether continual reassessment of the patient/client status is needed during treatment. This rule shall not preclude the occupational therapy assistant from responding to acute changes in the client's condition that warrant immediate action. The occupational therapy assistant shall inform the supervising occupational therapist immediately of the acute changes in the patient's/client's condition and the action taken.
- (b) The supervising occupational therapist shall assume responsibility for the following activities regardless of the setting in which the services are provided:
- (1) Interpretation of referrals or prescriptions for occupational therapy services.
  - (2) Interpretation and analysis for evaluation purposes.
    - (A) The occupational therapy assistant may contribute to the evaluation process by gathering data, administering standardized tests and reporting observations. The occupational therapy assistant may not evaluate independently or initiate treatment before the supervising occupational therapist performs an assessment/evaluation.
  - (3) Development, interpretation, implementation, and modifications of the treatment plan and the discharge plan.
    - (A) The supervising occupational therapist shall be responsible for delegating the appropriate interventions to the occupational therapy assistant.
    - (B) The occupational therapy assistant may contribute to the preparation, implementation and documentation of the treatment and discharge summary.

#### **4183. Treatments Performed by Occupational Therapy Limited Permit Holders and Students**

- (a) Consistent with Code section 2570.4, subdivisions (b) and (c), a Level II student may, at the discretion of the supervising occupational therapy practitioner, be assigned duties or functions commensurate with his or her education and training.
- (b) All documented client-related services by the limited permit holder or student shall be reviewed and cosigned by the supervising occupational therapist.

Note: Authority: Sections 2570.13 and 2570.20, Business and Professions Code. Reference: Sections 2570.2, 2570.3, 2570.4, 2570.5, 2570.6, and 2570.13, Business and Professions Code.

#### **4184. Delegation of Tasks to Aides**

- (a) The primary function of an aide in an occupational therapy setting is to perform routine tasks related to occupational therapy services. Non-client related tasks may be delegated to an aide when the supervising occupational therapy practitioner has determined that the person has been appropriately trained and has supportive documentation for the performance of the services.

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- (b) Client related tasks that may be delegated to an aide include specifically selected routine aspects of an intervention session. In addition to the requirements of Code section 2570.2, subdivisions (a) and (b), the following factors must be present when an occupational therapist delegates a selected aspect of an intervention to an aide:
- (1) The outcome anticipated for the aspects of the intervention session being delegated is predictable.
  - (2) The situation of the client and the environment is stable and will not require that judgment or adaptations be made by the aide.
  - (3) The client has demonstrated previous performance ability in executing the task.
  - (4) The aide has demonstrated competence in the task, routine and process.
- (c) The supervising occupational therapist shall not delegate to an aide the following tasks:
- (1) Performance of occupational therapy evaluative procedures;
  - (2) Initiation, planning, adjustment, or modification of treatment procedures.
  - (3) Acting on behalf of the occupational therapist in any matter related to occupational therapy treatment that requires decision making.
- (d) All documented client related services shall be reviewed and cosigned by the supervising occupational therapist.

#### **4187. Occupational Therapy Assistants Serving in Administrative Positions**

An occupational therapy assistant in an administrative role, or supervisory role related to the provision of occupational therapy services, may provide administrative responsibilities in a setting where permitted by law.







**CALIFORNIA BOARD OF  
OCCUPATIONAL THERAPY**

2005 Evergreen Street, Ste. 2050  
Sacramento, CA 95815

Tel 916/263-2294

Fax 916/263-2701

[www.bot.ca.gov](http://www.bot.ca.gov)

