

AGENDA ITEM 5

PRESIDENT'S REPORT ON SUNSET REVIEW HEARING AND PROCESS.

A letter of support from OTAC is attached for review.



February 28, 2017

The Honorable Jerry Hill, Chair
Senate Business, Professions & Economic Development Committee
State Capitol, Room 5035
Sacramento, CA 95814

The Honorable Rudy Salas, Chair
Assembly Business, Professions & Consumer Protection Committee
State Capitol, Room 4016
Sacramento, CA 95814

RE: Support – Continuation of California Board of Occupational Therapy

Dear Chairmen Hill & Salas,

The Occupational Therapy Association of California (OTAC) writes to express our support for the California Board of Occupational Therapy and the continuation of its mission to protect consumers through its regulatory, licensing and disciplinary functions while ensuring that occupational therapy licensees practice in a safe, ethical and competent manner.

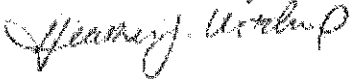
There are over 18,000 licensed occupational therapy clinicians in California, working with people of all ages experiencing physical and behavioral health conditions or disabilities to develop, improve, or restore functional daily living skills, such as caring for oneself, managing a home, achieving independence in the community, driving, or returning to work. Occupational therapy practitioners work collaboratively with physicians, nurses, physical therapists, speech-language pathologists, and other professionals in habilitation, rehabilitation, early intervention, school-based, substance abuse, and mental health / behavioral health practice. They collaborate with the patient or client, family members, and other key people in the individual's life to ensure that services are focused on meaningful activities that matter to him or her.

California's health and human services system is as complex as it is vast. As the state continues implementation of the Affordable Care Act, with one-third of the population enrolled in Medi-Cal and an estimated 1.4 million people enrolled in Covered California in 2017-18, meeting and increasing access to care is crucial. The same is true with respect to the costs and implications arising from the state's aging population – occupational therapy focuses on remediating challenges brought on by aging to allow people to live independently longer, and makes it possible for seniors to "age in place" in their own homes rather than in a nursing home. The number of occupational therapy practitioners, thus the number of entry-level practitioners, continues to increase to meet this demand, as demonstrated by the upswing in occupational therapy licensees since 2013. The Board's oversight is essential to develop guidelines and regulations that protect the scope of practice, ensure continuing competency, and monitor and evaluate legislative proposals and their potential impact on the occupational therapy profession and the people it serves.

Further, given the uncertainty with respect to the federal healthcare policy landscape, it is more critical now than ever that the Board of Occupational Therapy is steadfast in its mission to protect consumers and uphold high standards of practice for OT practitioners.

On behalf of OTAC, I encourage the committees to support the continued existence of the California Board of Occupational Therapy and its objectives to protect California consumers and ensure quality occupational therapy practice. If you have any questions, please contact Ivan Altamura with Capitol Advocacy at (916) 444-0400 or ialtamura@capitoladvocacy.com.

Sincerely,



Heather J. Kitching, OTD, OTR/L
OTAC President

cc: Members, Senate Business, Professions & Economic Development Committee
Members, Assembly Business, Professions & Consumer Protection Committee

BACKGROUND PAPER FOR THE CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

Joint Oversight Hearing, March 6, 2017

Assembly Committee on Business and Professions and
Senate Committee on Business, Professions and Economic
Development

BRIEF OVERVIEW OF THE BOARD

Function of the Board

The California Board of Occupational Therapy (CBOT) is a licensing board under the Department of Consumer Affairs (DCA). The purpose of the CBOT is to protect consumers through regulation of the practice of occupational therapy in California. Specifically, the CBOT administers the licensing and enforcement programs for occupational therapists (OTs), occupational therapy assistants (OTAs), and occupational therapy aides. The CBOT also establishes and clarifies state-specific process and practice standards through administrative rulemaking.¹

In California, regulation of occupational therapy began in 1977. Initially, regulation was limited to a title protection statute, which prohibited the use of titles such as “occupational therapist” or “O.T.” without meeting specific requirements.² In 2000, the Legislature passed the first iteration of the Occupational Therapy Practice Act.³ The Practice Act establishes the CBOT and specifies the scope, licensing requirements and fees, and penalties for violations of the Practice Act, including unlicensed practice.⁴

Under the Practice Act, it is a misdemeanor to practice occupational therapy or hold oneself out as being able to practice occupational therapy, via titles or other methods, unless licensed or otherwise authorized by law. The Practice Act provides, among others, the following definitions relating to the breadth and scope of occupational therapy as regulated in California⁵:

- “Practice of occupational therapy” means the therapeutic use of occupations.
- “Occupations” are “purposeful and meaningful goal-directed activities... 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.”

¹ California Code of Regulations (CCR), tit. 16, §§ 4100-4187.

² AB 1100 (Egeland), Chapter 836, Statutes of 1977.

³ SB 1046 (Murray), Chapter 697, Statutes of 2000.

⁴ Business and Professions Code (BPC) §§ 2570-2571.

⁵ BPC § 2570.2.

- “Occupational therapy services” include “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” is the identification of “performance abilities and limitations that are necessary for self-maintenance, learning, work, and other similar meaningful activities.”
- “Occupational therapy treatment” is defined as being “focused on developing, improving, or restoring functional daily living skills, compensating for and preventing dysfunction, or minimizing disability.” Treatment “may involve modification of tasks or environments to allow an individual to achieve maximum independence.”
- “Occupational therapy techniques that are used for treatment” are defined as involving “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, like treatment, may also “involve modification of tasks or environments to allow an individual to achieve maximum independence.”

The CBOT oversees over 12,000 OTs and 2,500 OTAs. During each of the last three fiscal years (FYs),⁶ the CBOT issued a combined average of 1,018 licenses and renewed a combined average of 6,849 licenses.

The CBOT’s mandates include⁷:

- Administer, coordinate, and enforce the provisions of the Practice Act.
- Evaluate the qualifications of applicants.
- Approve the examinations for licensure.
- Adopt rules relating to professional conduct to carry out the purpose of the Practice Act, 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.

The current CBOT mission statement, as stated in its *2016–2019 Strategic Plan*, is as follows:

To protect California consumers of occupational therapy services through effective regulation, licensing and enforcement.

⁶ A fiscal (budget) year starts on July 1 and ends on June 30 the following calendar year.

⁷ BPC § 2750.20.

The CBOT also interacts frequently with stakeholders, such as professional associations and consumers. The two professional associations cited in the CBOT's 2016 *Sunset Review Report* are the local Occupational Therapy Association of California, Inc. (OTAC) and the national American Occupational Therapy Association, Inc. (AOTA). The CBOT also utilizes the examination provided by the National Board for Certification in Occupational Therapy (NBCOT), a voluntary certification organization (discussed in further detail under the Examination section).

Board Membership

The CBOT is composed of seven members. It has a professional member majority—four professional members and three public members. The Governor appoints five members in total, the four professional members and one of the public members. The Senate Rules Committee and the Assembly Speaker appoint one public member each. Members receive no compensation but are provided \$100 per diem for each day spent performing official duties and are reimbursed for related travel.

The CBOT is required to meet at least three times each calendar year, with at least one meeting in the cities of Sacramento, Los Angeles, and San Francisco. The CBOT meetings are subject to the Bagley-Keene Open Meeting Act, which requires public notice and an opportunity for the public to testify.⁸

The following table lists the current members of the CBOT, including their background, when they were last appointed, their term expiration date, and their appointing authority.

Board Members	Appointment	Term Expiration	Appointing Authority
Denise M. Miller, President, Professional Member, is the director of the Live Well Senior Program at the Glendale Adventist Medical Center, where she was previously the manager of physician relations and coordinator of occupational and hand therapy. Miller also worked as a consultant and director of industrial therapy and training at Key Method Inc. She earned her MBA from La Sierra University.	01/05/16	12/31/19	Governor
Richard Bookwalter, Vice-President, Professional Member, is an OT for durable medical equipment and rehabilitation outcomes for Kaiser Foundation Hospitals Inc. He has also worked as: a supervisor of outpatient rehabilitation at the CA Pacific Medical Center; an OT and program manager at the Institute on Aging; a home health OT at the UCSF Medical Center; an OT at the Davies Medical Center; a development associate at the Manpower Demonstration Research Corporation; and a manager in development communications at the Columbia University Teachers College. Bookwalter earned his MS in occupational therapy from CSU San Jose.	01/05/16	12/31/16	Governor

⁸ Article 9 (commencing with § 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code (GOV).

Sharon L. Pavlovich, Secretary, Professional Member , is an assistant professor at Loma Linda University. She has also worked as a certified OTA at the Loma Linda University Medical Center and at the Casa Colina Centers for Rehabilitation. Pavlovich is a member of the OTAC and the AOTA. Pavlovich earned a MA in management from the University of Redlands.	01/05/16	12/31/19	Governor
Teresa Davies, Public Member , is a small business owner operating an art studio, Wine and Design, in the Bay Area. She previously worked as a Senior Manager for Pacific Gas & Electric, having spent 15 years in the energy and utility sector, and is a Navy Veteran. She is a current graduate student pursuing a MPA from Indiana University's School of Public and Environmental Affairs (SPEA).	01/11/17	12/31/20	Senate Rules
Jeffrey Ferro, Public Member , has been a labor activist since 1987. He started as a crew assistant at the Southern California Gas Company, became actively involved in his local union and the International Chemical Workers Union Local 58. In 1996, he joined the UFCW's International Chemical Workers Union Council and eventually promoted to Executive Assistant to the Executive Vice President/Director of Organizing. Ferro obtained his undergraduate degree from Crafton Hills Community College, attended CSU Polytechnic Pomona, and graduated from the Harvard Trade Union Program.	01/13/14	12/31/16*	Speaker of the Assembly
Laura L. Hayth, Professional Member , has been an area vice president at Aegis Therapies since 2012 and a freelance writer since 2001. She has also worked as a compliance resource and lead investigator, and director of rehabilitation prior to that, at Ensign Group; a rehabilitation program manager at People First Rehabilitation; and a case manager at the Bluegrass Regional Mental Health and Retardation Board. She is a member of the NCBOT and the AOTA. Hayth earned a Doctor of Spiritual Studies degree from the Emerson Theological Institute.	05/05/15	12/31/18	Governor
Beata Draga-Morcós, Public Member , has been chief executive officer at the Black American Political Association of California since 2008. She was director of operations at Worldtone Dance from 2005 to 2008.	05/19/15	12/31/18	Governor
*BPC § 2570.19(f) authorizes appointees at the end of their term to serve until successors are appointed.			

Committees

Because members of the licensing boards often have professional responsibilities outside of their board responsibilities, they are usually only able to meet a few times a year. As a result, many use smaller committees that are able to meet more frequently, explore issues in-depth, and then make recommendations to the full boards at the public board meetings. Some committees are specified in statute, while others are established as needed by the boards.

The CBOT currently has four standing committees and one ad hoc committee. It uses committees to address policy issues, issues referred by the public or licensees to the CBOT, or recommendations by CBOT staff. While the CBOT's committees are not specified in statute, they are described in greater detail in the CBOT's *Guidelines and Procedures Manual*. The manual, among other things, specifies committee rules, authorizes the CBOT and the committees

to establish ad hoc committees, and requires the committees to comply with the requirements of the Bagley-Keene Open Meetings Act.

The CBOT's current committees include the following:

- **Administrative Committee:** The committee meets as needed to provide guidance to staff on budgeting and organizational issues. It has three members, the board president, vice president, and the executive officer.
- **Education and Outreach Committee:** The committee's purpose is to develop consumer and licensee outreach projects, such as the CBOT's newsletter, website, and e-government initiatives. Committee members may represent the CBOT at meetings, conferences, or when invited by outside organizations. It is composed of four members, including at least one board member.
- **Legislative/Regulatory Affairs Committee:** The committee's purpose is to monitor legislation and regulations impacting the CBOT and provide information and make recommendations to the CBOT and the other committees. It is composed of four members, including at least one board member.
- **Practice Committee:** The committee's purpose is to provide recommended responses to practice issues submitted by licensees and consumers; provide guidance to staff on continuing competency audits; provide recommendations on practice-related regulatory amendments; and provide recommendations to staff on revisions to applications and forms. It is composed of at least four members, including at least one board member, and must represent a variety of work settings.
- **Enforcement Committee:** The enforcement committee is the only ad-hoc committee. The purpose of the committee is to improve the CBOT's enforcement activities, including developing and reviewing policies, regulations, forms, and guidelines. The members do not review individual enforcement cases. It is composed of four members, including at least one board member.

Fiscal and Fund Analysis

The CBOT is a special fund agency, which means it receives no general funds.⁹ It is fully funded through the revenues the CBOT deposits into the Occupational Therapy Fund.¹⁰ While the CBOT has no statutorily mandated minimum reserve level, many regulatory boards are expected to maintain a reserve of operating funds to cover unexpected costs, such as litigation or administrative Pro Rata costs.¹¹ The CBOT currently estimates a reserve of 10.5 months. The last loan the CBOT made to the General Fund was in FY 2009/10 for \$2 million. The loan was fully satisfied in FY 2013/14 and included \$82,000 in interest.

⁹ For more information related to state funds, see Department of Finance, *Glossary of Budget Terms*, http://www.dof.ca.gov/budget/resources_for_departments/budget_analyst_guide/glossary.pdf.

¹⁰ BPC § 2570.22.

¹¹ See Government Code § 11270 and BPC § 201.

However, the CBOT has at several times exceeded its statutory 24-month maximum reserve level¹² since FY 2004/05. In response, in January 2007 the CBOT switched its \$150 renewal fee schedule from annual to biennial, halving the largest portion of its revenues, resulting in a drop of about \$500,000 in revenue each FY.¹³

The CBOT reports that this has resulted in an operational deficit: revenues are lower than the authorized budget (an average difference of approximately \$277,000 since FY 2008/09). While this helped when the fund was over the limit, the CBOT notes that it now intentionally spends a little less than the authorized budget to revert expenditures back into the fund (an average of approximately \$172,000 since FY 2008/09).

In addition, in FY 2015/16, the CBOT submitted a Budget Change Proposal (BCP) for additional staff. The BCP was approved, authorizing 7.5 additional staff positions (totaling 15.2 authorized positions effective for FY 2016/17). As a result of the approval, the CBOT's authorized budget increased by an additional \$717,000 for FY 2016/17 and \$653,000 for FY 2017/18 and onward. The projected potential deficit is noted below. For further discussion, see Issue #1 regarding the fee increase under Current Sunset Review Issues.

Fund Condition (dollars in thousands)						
	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17*	FY 17/18*
**Beginning Balance	611	1,157	922	2,982	3,002	2,035
Revenues and Transfers (excluding loans and interest)	1,144	1,120	1,259	1,305	1,371	1,411
†Loan Repayments	640	--	2,000	--	--	--
Interest on Loans	89	82	--	--	--	--
Total Revenues and Transfers	1,784	1,202	3,259	1,305	1,383	1,383
Total Resources	2,395	2,359	4,181	4,287	4,385	3,449
Budget Authority	1,372	1,520	1,360	1,437	2,299	2,241
Structural Deficit	-228	-400	-78	-132	-928	-830
‡Expenditures	1,241	1,435	1,198	1,285	2,338	2,304
Actual Deficit (less loans)	-97	-315	+61	+20	--	--
Fund Balance	\$1,154	\$922	\$2,983	\$3,002	\$2,066	\$1,085
Months in Reserve	9.7	9.2	27.9	15.4	10.6	5.8

* Updated by the DCA Budget Office to reflect the 2017/18 Governor's Budget.
 ** Includes prior year adjustments.
 † Loan and interest were issued at the end of FY13/14, which may have caused them to be reported in different FYs.
 ‡ Includes direct draws from SCO, Fiscal, Statewide Pro Rata, and reimbursements which may not be accounted for in the budget authority.

Note: While this table includes information from the CBOT's 2016 Sunset Review Report, it also includes updated numbers from the DCA which differ from those it provided to the CBOT at the time the CBOT wrote the report.

¹² See BPC § 128.5.

¹³ As noted in the CBOT's 2012 Sunset Review Reports and 2016 Sunset Review Reports.

The CBOT's total program component expenditures for the last four FYs totaled an approximate annual average of \$1.3 million. The averages for the individual program components are as follows:

- The enforcement program averaged \$783,400, which is 59.6% of the average total.
- The licensing program averaged \$112,800, which is 8.6% of the average total.
- The administration program averaged \$114,900, which is 8.7% of the average total.
- The DCA Pro Rata costs averaged \$239,600, which is 18.2% of the average total.

Since FY 2008/09, the CBOT's Pro Rata expenditures have steadily increased and, since FY 2009/10, include BreEZe costs. In addition, since FY 2012/13, the CBOT's annual Pro Rata expenditures have been greater than those of either of the administrative or licensing programs.

Expenditures by Program Component (dollars in thousands)*								
Program	FY 2012/13		FY 2013/14		FY 2014/15		FY 2015/16	
	Personnel	OE&E	Personnel	OE&E	Personnel	OE&E	Personnel	†OE&E
Enforcement	386.2	383.3	428.4	532.3	398.1	297.3	389.1	319.0
Licensing	123.9	49.1	126.0	40.4	117.1	43.0	114.5	54.0
Administration	94.7	37.6	92.4	29.6	85.9	31.5	83.9	39.0
DCA Pro Rata	--	190.7	--	206.7	--	246.1	--	315.0
TOTALS	604.9	660.7	646.8	809.0	601.1	618.0	587.5	727.0

* Actual expenditures. Does not include reimbursements.
† This column differs from the CBOT's 2016 Sunset Review Report because the DCA Budget Office initially distributed the Pro Rata cost among all OE&E categories.

Note: While this table includes information from the CBOT's 2016 Sunset Review Report, it also includes updated numbers from the DCA which differ from those it provided to the CBOT at the time the CBOT wrote the report.

The CBOT also provided the following expenditures for the BreEZe program:

BreEZe Expenditures (dollars in thousands)							
FYs 09-11	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17	FY 17/18	FY 18/19
Actual	Actual	Actual	Actual	Actual	Budget	Budget	Budget
\$24	\$15	\$33	\$64	\$137	\$133	\$132	\$127

Note: This table includes information from the CBOT's 2016 Sunset Review Report.

Fees

The Practice Act provides for the following fees relating to OT and OTA licenses¹⁴:

- An initial license fee not to exceed \$150 per year.
- A renewal fee not to exceed \$150 per year.
- An application fee not to exceed \$50.
- A late renewal fee that is 50% of the renewal fee in effect on the date of the renewal of the license, but not less than \$25) nor more than \$150.¹⁵

¹⁴ BPC § 2570.16

- A limited permit fee.
- A fee to collect fingerprints for criminal history record checks. While the CBOT collects some of these fees, the CBOT passes them through to the law enforcement agencies.
- A retired license fee of \$25.¹⁶

The Practice Act also authorizes the CBOT to establish the requirements for renewal. As noted earlier, the CBOT has switched to a biennial renewal cycle. In order to avoid large surges of renewals at a single time, it also bases renewal dates on an applicant's birth month. However, this varies the duration of the initial license, resulting in a minimum initial license period of 7 months and a maximum of 30 months. Therefore, to ensure each licensee pays an equitable initial fee, the CBOT prorates the initial license fee to match the number of months over or under 12 months (from \$43 - \$188).

The fees and procedures established by the CBOT are published under California Code of Regulations (CCR), tit. 16, § 4130. The following table describes the fees in more detail:

Fee Schedule and Revenue (revenue dollars in thousands)								
	Current Amount	Statutory Limit	FY 12/13 Revenue	FY 13/14 Revenue	FY 14/15 Revenue	FY 15/16 Revenue	Total	% of Total
Admin Services								
OT Dup Lic	15	25	2	2	2	2	8	0.18%
†OTA Dup Lic	15	25	0	0	0	0	0	0.00%
†Cite/Fine FTB	50-5,000	5,000	0	0	0	0	0	0.00%
Cite/Fine Collected	50-5,000	5,000	32	29	36	16	113	2.47%
		Sub Total	34	31	38	18	121	2.65%
Initial License/App								
OT Initial License	43-188	150	100	101	109	117	427	9.35%
OTA Initial License	43-188	150	27	32	34	43	34	0.74%
OT Limited Permit	75	-	4	4	3	3	14	0.31%
OTA Limited Permit	75	-	2	2	1	1	6	0.13%
†/‡OT retired	25	25	0	0	0	0	0	0.00%
†/‡OTA retired	25	25	0	0	0	0	0	0.00%
‡OT App fee	50	50	0	0	50	55	105	2.30%
‡OTA App fee	50	50	0	0	15	20	35	0.77%
		Sub Total	133	139	212	239	723	15.83%
Renewals								
OT Inactive	25	150	10	10	10	9	39	0.85%
OTA Inactive	25	150	2	2	2	1	7	0.15%
*OT Active	150	300	717	758	783	794	3052	66.81%
*OTA Active	150	300	126	136	153	163	578	12.65%
OT Delinquent	75	75	13	13	12	14	52	1.14%
OTA Delinquent	75	75	2	2	2	2	8	0.18%
		Sub Total	858	921	962	983	3724	81.52%

¹⁵ BPC § 163.5

¹⁶ BPC § 2570.17

	Total	1025	1091	1212	1240	4568	100%
* Statutory maximum is \$150 per year; currently \$150 is charged every other year.							
† This revenue category results in less than \$1,000 in revenue.							
‡ This revenue category is new and may only show recent revenues.							

Note: This table includes information from the CBOT's 2016 Sunset Review Report.

Board Staff

Per the CBOT's organizational chart for FY 2015/16, the CBOT had 7.7 authorized positions. The CBOT's recently approved BCP added 6.0 additional enforcement staff and 1.5 additional licensing staff, totaling 15.2 authorized positions for FY 2016/17. The CBOT states that the positions are needed to assist with its licensing and enforcement workload (discussed further under each respective section). The CBOT is in the process of filling the new vacancies.

The CBOT reports that the two-year transition to BreEZe also contributed to the increased workload. It writes in its *2016 Sunset Review Report* that staff continues to be heavily impacted by BreEZe workload issues despite the program's implementation in January of 2016. For instance, the CBOT states that staff continues to identify BreEZe system and data errors and is required to develop and test system releases.

Licensing

In general, licensing programs serve to protect the consumers of professional services and the public from undue risk of harm. The programs require anyone who wishes to practice a licensed profession to demonstrate a minimum level of competency. Requirements vary by profession, but usually include specific education, examinations, and experience.

The Practice Act requires that an applicant seeking an OT or OTA license must meet the following competency requirements¹⁷:

- Complete the academic requirements of an approved and accredited educational program for OTs or OTAs;
- Complete two years of postgraduate training;
- Complete a period of supervised fieldwork experience; and
- Pass an entry-level certification examination.

In addition, many programs have specific age and moral character requirements. For OTs and OTAs, the Practice Act also requires that applicants meet the following fitness to practice requirements:

- The applicant is over 18 years of age.
- The applicant is not addicted to alcohol or any controlled substance.
- The applicant is in good standing and has not committed acts or crimes constituting grounds for denial of licensure under BPC § 480.¹⁸

¹⁷ BPC § 2570.6.

¹⁸ BPC § 480 authorizes a board to deny a license regulated by the BPC if the applicant has been convicted of a crime, done any specified act, (if the crime or act is substantially related to the qualifications, functions, or duties of

As a result, applicants must certify that they meet the requirements, including that they have not been disciplined by a licensing body or employer and have not committed acts or crimes substantially related to the practice. If an applicant does not meet the requirements, the applicant must disclose the disciplinary or criminal acts.

The CBOT requires applicants to submit proof in the form of primary source documentation, such as sealed educational transcripts, vendor-issued proof of passage of examination, and certified court documents. Applicants also submit fingerprints to the Department of Justice (DOJ) and the Federal Bureau of Investigations (FBI) for a background check. The CBOT uses the records to determine the existence of relevant convictions.

It also reports that it compares all primary source documents against an applicant's disclosure statements to determine the applicant's honesty during the application process (and renewal process for renewing licensees).

License Processing

The CBOT's performance target for its licensing program is to respond to an application with a written approval or explanation within 30 days of receipt.¹⁹ The CBOT reports that it generally meets this timeframe and takes approximately 22-27 days to provide written notice.

The CBOT's average time to fully process either an OT or OTA application was 60 days. When looking at OTs, the average processing time was 23 days for completed applications and 60 days for incomplete applications. For OTAs, the average processing time was 19 days for completed applications and 76 days for incomplete applications.

When the CBOT is at risk of not meeting its 30-day performance target, it states that it has been able to redirect staff resources. The CBOT states this is usually due to short surges in application submissions around graduation periods. As a result, it believes that any growth in pending applications is manageable. In addition, the CBOT's approved BCP authorizes an additional 1.5 licensing office technician positions for FY 2016/17.

Still, the CBOT writes that it will continue to monitor its processing times. If it is not able to meet the 30-day performance target, it will take steps to improve them, including seeking additional staff through the BCP process or considering legislative or regulatory changes.

School Approvals

The Practice Act requires applicants for an OT or OTA license to complete the academic requirements of an approved and accredited educational program. Specifically, BPC § 2570.6(b) requires the educational program to meet the following:

- 1) Be approved by the CBOT;

the relevant business or profession), or knowingly makes a false statement of fact that is required to be revealed in the application for the license.

¹⁹ CCR, title 16, § 4112

- 2) Be accredited by the AOTA's Accreditation Council for Occupational Therapy Education (ACOTE), accredited or approved by the AOTA's predecessor organization, or approved by AOTA's Career Mobility Program; and
- 3) The curriculum must meet the content standards required by the ACOTE or the relevant AOTA accreditation agency, including specified course subjects (BPC § 2570.6(b)(2)-(3)).

While the Practice Act requires that educational programs be accredited by the ACOTE and approved by the CBOT, the CBOT does not separately approve, review, or remove schools. In practice, the CBOT approves accredited schools by default.

Examination

The Practice Act requires all applicants to take an entry-level certification examination, such as the one administered by the NBCOT. According to the CBOT, the NBCOT is the same vendor used by all other states. The CBOT is not involved in the administration or development of the NBCOT examination.

The NBCOT examination is a computer-based test that is administered at Prometric Test Centers. The examination application costs the same for OTs and OTAs: \$515 for the online exam and \$555 for the written exam. All applicants must also pay a \$40 fee to transfer their scores to the CBOT. The full fee schedule can be found on the NBCOT's website: <http://www.nbcot.org/fees>.

The application for the NBCOT examination includes its own moral character component. It requires a background check and primary source documentation, such as school transcripts, which are in addition to and duplicative of what applicants are required to provide to the CBOT.

The following table shows exam statistics provided by the NBCOT:

NBCOT First-Time Examination Statistics (calendar years)				
OTs	National Candidates	National Pass rate	California Candidates	California Pass rate
2012	4931	86%	339	85%
2013	5411	84%	355	84%
2014	5758	86%	379	85%
2015	6067	87%	411	84%
OTAs	National Candidates	National Pass rate	California Candidates	California Pass rate
2012	3806	81%	116	80%
2013	4354	84%	166	80%
2014	4607	82%	179	77%
2015	4949	79%	257	72%

Note: This table includes information from the CBOT's 2016 Sunset Review Report.

The Practice Act also authorizes the CBOT to require examination subjects in addition to the NBCOT examination. However, it does not include additional examinations such as a state-specific ethics or law exam.

Continuing Competency

Professions and practices can change over time. For instance, new technology, research, or ethical requirements may increase the level of minimum competence needed to protect consumers. Therefore, some licensing boards require licensees to complete additional training or classes to maintain minimum competence post-licensure. This is usually accomplished through continuing education/continuing competence requirements at the time of renewal.

The Practice Act authorizes the CBOT to do so.²⁰ The CBOT has exercised this authority and requires both OTs and OTAs licensees to complete 24 professional development units (PDUs) prior to renewal.²¹

Licensees can earn PDUs through a variety of means, such as academic course work, attending board meetings and activities, or mentorship. The CBOT also accepts programs and activities sponsored by the OTAC or AOTA, including continuing education courses, and many of the activities listed overlap with those listed for renewal of the NBCOT certification.

Rather than require licensees to submit certificates of completion at the time of renewal, the CBOT audits a random sample of renewing licensees to determine compliance with the requirement. However, the CBOT does not approve, audit, or review the individual course providers. The CBOT's internal performance target is to audit 10-15% of its active renewals. Since FY 2013/14, the CBOT has audited an average of approximately 7.78% renewals per FY.

According to the CBOT, it has conducted a total of 2,074 audits to since FY 12/13, which is an average of 518.5 audits per year. Of those 2,074 audits, 217 licensees were referred to the CBOT's Enforcement Unit for either not responding to the audit or for failing to demonstrate completion of the requirements. Of the 217 cases, 151 licensees were issued a citation.

Continuing Competence Audit Data					
Fiscal Year	Renewals	Audited	% Audited	Raw Failed	% Failed
2012/13	6078	479	7.88%	50	10.4%
2013/14	6628	501	7.56%	45	8.98%
2014/15	6911	746	10.79%	83	11.13%
2015/16	7008	348	4.97%	39	11.21%
Total	26625	2074	7.73%	217	10.46%
Average	6656	519	7.80%	54	10.46%

Note: This table includes information from the CBOT's 2016 Sunset Review Report.

²⁰ BPC §2570.10(b).

²¹ CCR, tit. 16, §4161.

Enforcement

The CBOT has the authority to investigate violations of the Practice Act, issue citations, deny or take disciplinary action against a license (e.g. probation, suspension, or revocation), refer cases for criminal prosecution, and file for other legal actions, such as injunctions or restitution.

As with other licensing boards, the CBOT relies on information it receives to initiate investigations, mainly complaints and information drawn from submitted documentation (e.g. a delinquent renewal faxed from an employer's fax machine). When the CBOT opens a complaint for potential violations based on inaccuracies or other issues observed by staff, it is considered an internal complaint.

From FYs 2013/14 to 2015/16, the CBOT received an average of 504 complaints per FY (1,512 total). The majority of the CBOT's complaints are internal complaints. The breakdown of the categories is as follows:

- Complaints from the public averaged 37 per FY (110 total, or 7.3% of all complaints).
- Complaints from licensee and professional groups averaged 4 per FY (13 total, or 0.9% of all complaints).
- Complaints from governmental agencies averaged 5 per FY (16 total, or 1.1% of all complaints).
- Complaints designated as "other," which are mostly internal complaints and some anonymous complaints, averaged 458 per FY (1373 total, or 90.8%).

However, for FY 2015/16 the CBOT only reported a total of 285 complaints received, 253 of which were complaints designated as "other." Both are significantly lower than in prior FYs. The CBOT reports that this was again due to BreEZe implementation. Because staff was unavailable, the CBOT made the following adjustments:

- 1) Staff suspended opening internal complaints against licensees for failing to provide notice of an address change.
- 2) Staff increased the threshold number of days before opening internal complaints against delinquent renewals for unlicensed practice from 14 to 30 days.
- 3) Staff reduced the number continuing competency audits performed.

The CBOT writes that BreEZe also impacted investigations. At the end of FY 2015/16, the number of pending investigations increased compared to the prior FY, despite the number of investigations assigned decreasing. At the end of FY 2014/15 the CBOT had assigned 737 cases and had 326 investigations pending. By the end of FY 2015/16, it had assigned 419 cases and had 509 investigations pending.

However, as noted above, the CBOT now has six new enforcement positions in July 2016. The CBOT is currently recruiting and anticipates four analyst positions will be filled by December

2016 and the remainder by March or April 2017. With the new staff, the CBOT plans to reduce the backlog by December 2017.

Case Resolution

The primary purpose of enforcement is to protect consumers. However, while there are options for immediately suspending a licensee's ability to practice, they are reserved for egregious cases. Further, due process requires that licensees are not punished before being provided the opportunity for a fair hearing. Therefore, timely resolution of complaints and enforcement actions both decreases the risk to consumer safety and increases fairness to licensees.

To help ensure the timely resolution of enforcement cases for all healing arts boards, the DCA established the Consumer Protection Enforcement Initiative (CPEI).²² The CPEI is a set of enforcement guidelines and administrative improvements meant to help boards maintain enforcement timelines between 12 to 18 months (365 to 540 days).

The CBOT meets its targets except Performance Measure 4 (PM4), which has a target of no more than 540 days to complete the entire enforcement process for cases referred for formal discipline. Most DCA boards have difficulty meeting PM4. Over the last three FYs, the CBOT averaged 566 days to close formal discipline cases.

The average number of days is high due to FYs 2013/14 and 2014/15:

- In FY 2013/14, the cases closed averaged a total of 626 days, with cases in Q1 averaging a total of 579 days (but August alone averaged 996 days) and cases in Q4 averaging 997 days.
- In FY 2014/15, the cases closed averaged a total of 592 days, with cases in Q2 averaging 765 days Q3 averaging 1,452 days, and Q4 averaging 1,090 days.

The CBOT also notes that, overall, the number of disciplinary actions has decreased since its 2012 *Sunset Review Report* (14 total license revocations/surrenders and 18 new probationers in the last four FYs compared to 12 revocations/surrenders and 38 probationers in the prior three FYs). The CBOT again attributes this to BreEZe.

Cite and Fine

The general provisions of the BPC authorize the entities within the DCA to establish a system for issuing citations.²³ The CBOT uses its cite and fine authority to address violations that warrant some action but do not rise to the level of formal discipline.

²² http://www.dca.ca.gov/about_dca/cpei/overview.pdf.

²³ BPC §§ 125.9, 148.

The CBOT's established fines range from \$50 to \$5,000.²⁴ It reports that many citations issued are minor, involving address change reporting violations or continuing competence. Fines assessed for minor violations usually range from \$50 to \$600.

Larger fines are reserved for more substantial violations. These include unlicensed practice for over one year, fraudulent billing, and violations that carry a risk of patient harm.

In the last four FYs, the CBOT issued an average of 163 citations (650 total). Consistent with the other enforcement statistics, FY 2015/16 the CBOT issued a total of 52 citations, lower than the average and significantly lower than the number issued in FY 2014/15 (296).

Over the last four FYs, the CBOT's average citation fine pre-appeal was \$185. The post-appeal fine amount averaged \$174.

Top Five Violations	
Rank	Violation
1	Unprofessional conduct (incompetence, gross or repeated negligence, conviction for practicing medicine)
2	Unlicensed practice (practicing with an expired license or with an inactive license)
3	Failure to complete continuing competence requirements
4	Failure to disclose criminal convictions or disciplinary action taken by another state
5	Failure to provide a timely address change

Note: This table includes information from the CBOT's 2016 Sunset Review Report.

As an administrative agency, the CBOT's disciplinary actions are tied to its authority to discipline a license. Therefore, the CBOT typically collects fines by withholding the offending licensee's renewal until the fine is paid.

However, against licensees who choose not to renew or unlicensed individuals, the CBOT's authority is limited. Therefore, the CBOT utilizes the Franchise Tax Board's (FTB) Intercept Program to attempt collection of any outstanding fines. Under this program, the FTB will seize tax refunds, lottery winnings, and cash claims for unclaimed property on the CBOT's behalf until the fines are paid.²⁵

FTB Intercept Program			
	FY 2013/14	FY 2014/15	FY 2015/16
Number of citations with fine amount unpaid	\$4701	\$5813	\$3975
Citations total unpaid	24	72	5

²⁴ CCR, tit. 16, §§ 4141(a)-(b).

²⁵ GOV § 12419.5 authorizes the State Controller to offset fines owed to a state agency by a person or entity against any amount owed to the person or entity by the state (i.e. tax refunds from the FTB, winnings in the California State Lottery, or a claim for unclaimed property).

Number of citations referred to FTB	4	14	1
Number of citations collected by FTB	9	7	4
Dollars intercepted by FTB	\$750	\$350.36	\$249.64

Note: This table includes information from the CBOT's 2016 Sunset Review Report.

Because the CBOT finds that practicing without a license or on an expired license is common, it has amended its cite and fine regulations to increase the penalty for practicing without a license and practicing on an expired license for more than a year. Instead of a citation, the CBOT will file a statement of issues (in a case involving an unlicensed individual) or in an accusation (in a case involving a licensee).

The CBOT has issued citations for unlicensed practice as follows:

Citations	
Fiscal year	Issued
2012-13	14
2013-14	13
2014-15	24
2015-16	11

Note: This table includes information from the CBOT's 2016 Sunset Review Report.

The minimum fine assessment was \$125 and the maximum was \$5,000. The CBOT also investigated three unlicensed practice matters that resulted in criminal convictions.

Cost Recovery

The CBOT reports that it requests cost recovery in all cases in which it is authorized to seek cost recovery. Potential cases for recovery are cases in which disciplinary action has been taken based on violation of the license practice act.²⁶

Cost Recovery (dollars in thousands)				
	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
Total Enforcement Expenditures	106	394	151	137
Potential Cases for Recovery	3	12	4	6
Cases Recovery Ordered	1	8	4	3
Amount of Cost Recovery Ordered	\$3	*\$36	\$17	\$6
Amount Collected	\$7	\$11	\$12	\$19

*Cost recovery reported in the 2013-14 Annual Report was \$28,730.

Note: This table includes information from the CBOT's 2016 Sunset Review Report.

²⁶ BPC § 125.3

Public Information and Consumer Outreach

As a public agency, the CBOT is required to keep the public informed of board activities and provide the opportunity for engagement and input. The CBOT provides the following methods for informing the public:

- **The CBOT website:** The CBOT uses its website to provide information, forms, applications, laws, proposed and adopted regulations, board meeting materials and minutes, board and committee meeting webcasts, newsletters, and important notices. The CBOT also has a listserv where members of the public can sign up for email notices.
- **Webcasting:** CBOT meetings that have been webcasted are available accessible on CBOT's website and YouTube. However, the CBOT rarely webcasts its meetings (four total in in the last six years), citing scheduling issues and limited DCA resources.
- **Social media:** the CBOT's Facebook page is used to announce updates and it uses Twitter to communicate special events or activities.
- **Phone and Email:** the CBOT reports that it responds when contacted.
- **Educational brochures and newsletters:** The CBOT reports that its new 2016-2019 Strategic Plan prioritizes education and outreach. It plans to develop brochures and newsletters describing the practice and regulation of occupational therapy and provide updated information. It will also increase its use of social media.
- **Personal Appearances:** In compliance with travel restrictions, the CBOT makes annual speaking appearances at the OTAC conferences. The CBOT provides practice information, disseminates brochures, and staffs an informational booth.

The CBOT plans to keep its meeting information (e.g. agenda, meeting materials, minutes) on its website indefinitely. Draft minutes are made available to the public on the website after the meeting materials are sent to the board members. The CBOT's policy is to post the final minutes within two weeks of approval.

Additional Background Information

For more detailed information regarding the responsibilities, operation and functions of the CBOT, please refer to the CBOT's 2016 *Sunset Review Report*. The report is available on the Assembly Committee on Business and Profession's website at:

<http://abp.assembly.ca.gov/reports>.

PRIOR SUNSET REVIEWS: CHANGES AND IMPROVEMENTS

The CBOT was last reviewed in 2013. A total of 10 issues were raised by the Committees at that time. Below are actions which have been taken over the last four years to address these issues. Those that were not addressed and may still be of concern are discussed further under the Current Sunset Review Issues section.

Recommendation 1: The CBOT should inform the Committee of the reason that they have been unsuccessful in webcasting meetings. The Committee recommends that the CBOT utilize webcasting at future meetings in order to allow the public the best access to meeting content, activities of the CBOT and trends in the profession.

CBOT Response: Meetings that have been webcast were performed by the DCA's Office of Public Affairs. During the reporting period efforts were made to provide the best access to meeting content, activities of the CBOT, and trends in the profession. However, webcasting took place subject to availability of DCA staff. At its August 2016 meeting, the CBOT selected its 2017 meeting dates. By selecting the meeting dates earlier in the year, the CBOT is hopeful to have more of its meetings webcast in 2017, and on-going.

Recommendation 2: Due to the high percentage of dissatisfaction with the CBOT's assistance, the Committee requests that the CBOT provide additional training to its staff regarding customer relations and complaint resolution techniques.

CBOT Response: A review of the comments provided in this report indicates that the majority of negative comments pertained to the advanced practice application process and the license application review process, including the complaint about the inability to renew a license online.

The CBOT acknowledges there is always room for improvement and will strive to achieve better results. Backlogs with the review of advanced practice applications have been reduced and processing timeframes are improving. Typically surveys like the CBOT's capture data of the extremely satisfied and dissatisfied stakeholder. With only 51 people completing the survey in a four-year period, the CBOT asks the committee to consider that there are more than 16,000 licensees. The CBOT processed more than 20,500 renewals in a three-year period and processes more than 1,400 license applications per year.

Recommendation 3: The Committee recommends that the CBOT provide citation information on the licensee's record in WLL and/or post the citation information on the CBOT's Disciplinary Action section of its website.

CBOT Response: The CBOT has adopted the 2012 Sunset Committee's recommendation to provide citation information on a licensee's record. The policy decision was made at its November 7, 2013, meeting. CBOT staff was unable to implement the policy change until January 2016 due to a freeze on programming changes to the licensing and enforcement system that was in use prior to BreEZe.

Since the BreEZe system launched in January 2016, CBOT staff has been posting PDF copies of citations on license records as they are being issued. CBOT staff plans to go back and incorporate previously issued citations on license records, consistent with the CBOT's citation retention schedule set forth in 16 CCR Section 4145, as time and resources permit. This task will

be aided by the recent augmentation of six additional positions the CBOT was authorized through the BCP process.

Recommendation 4: The Committee recommends that the CBOT create a plan for purchasing the continuous query service which may include sponsoring legislation to address how the cost should be covered.

CBOT Response: "Continuous Query" is a service provided by the National Practitioner Data Bank that monitors enrolled licensees for adverse actions and medical malpractice payment history 24 hours a day/365 days per year for a one time enrollment fee which is then subject to annual renewal. Previously the CBOT utilized this important tool by facilitating the review of applicants (holding a license(s) issued by another state) past disciplinary actions as well as ensuring the Board is notified of any future disciplinary actions taken against the licensee by another reporting entity.

The CBOT utilized the Continuous Query function for applicants as well as licensees placed on probation during the period May 2010 to December 2013. During that period it spent approximately \$13,208.25 on 2,317 initial enrollees and renewals. The CBOT only received two "hits" or reports as a result of the query. Based on the lack of "hits" or reports received it did not appear to be the most efficient use of CBOT funds. It's important to note that few other occupational therapy state regulatory agencies report actions to the data bank.

The CBOT has proposed legislation adding the authority to collect the NPDB query fee.

Recommendation 5: The Committee recommends that the CBOT outline a plan to include a jurisprudence and/or ethics course as a required continuing education course for its licensees.

CBOT Response: Rather than develop a state jurisprudence examination, the CBOT suggests an alternative: Require all applicants for licensure and renewing licensees to provide an 'attestation' on the application. This attestation would reflect the licensee they have read the laws and regulations relating to occupational therapy practice in California. Since a recent report issued by the Little Hoover Commission highlighted the importance of establishing defensible licensing requirements, the CBOT is awaiting further information from the DCA's Office of Professional Examination Services on the costs of an occupational analysis and examination audit.

Recommendation 6: The Committee believes that a licensing board should critically examine its practices to ensure that it is acting in the public's interest when they enter into a stipulated settlement. The Committee recommends that the CBOT provide an explanation for their high percentage of stipulated settlements. Additionally, the CBOT should indicate if any of the cases that were resolved via stipulated settlements settled for lower standards than the CBOT's disciplinary guidelines require.

CBOT Response: The disciplinary guidelines are established with the expectation that Administrative Law Judges hearing a disciplinary case, or proposed settlements submitted to the

board for adoption will conform to the guidelines. If there are mitigating factors, such as a clear admission of responsibility by the licensee early on in the process, clear willingness to conform to board-ordered discipline, or other legal factors, a decision or settlement might vary from the guidelines.

All cases are reviewed individually based on the nature of the allegations, case strengths and weaknesses, and analysis of any danger that continued practice by the licensee could or would pose to consumers. In virtually every case the CBOT has settled with probationary terms, it has gotten terms and conditions that are consistent with recommended penalties outlined in its Disciplinary Guidelines. Often the CBOT gets stronger and more specific terms to correct and remediate the issues that gave rise to the disciplinary action when entering into settlements. Stipulated settlements almost always result in faster resolutions to cases and save hearing costs. Please also note that 31.6% (6 of the 19) stipulated settlements reported in the last three fiscal years resulted in the practitioners surrendering their license.

Recommendation 7: The Committee recommends that the CBOT detail what enforcement related over expenditures have led to the redirection of funds. In addition, the Committee is aware that the DCA allows travel for certain CBOT activities. As such, the Committee recommends that the CBOT consult with DCA to clarify what type of travel is permitted.

CBOT Response: The DCA and boards have been following policies regarding travel as detailed in the Governor's Executive Order B-06-11. This order states that no travel, either in-state or out-of-state, is permitted unless it is mission critical or there is no cost to the state. Mission critical is defined as travel that is directly related to, enforcement responsibilities, auditing, revenue collection, a function required by statute, contract or executive directive, or job-required training necessary to maintain licensure or similar standards required for holding a position.

Recommendation 8: The CBOT should make every attempt to comply with BPC § 115.5 in order to expedite licensure for military spouses. The CBOT should also consider waiving the fees for reinstating the license of an active duty military licensee. Consistent with the ACOTE and NBCOT policy for OTAs, the Board should also examine the possibility of accepting military training and experience towards licensure for OTs.

CBOT Response: The Occupational Therapy Act does not include specific standards for addressing military personnel who are licensed OTs or OTAs. However, the ACOTE and the NBCOT recognize military education and training as a qualifying educational program for OTAs. A review of the qualification requirements for occupational therapists serving in the armed services, indicates that completion of an accredited occupational therapy degree program and passage of the NBCOT examination is required.

The Board complies with BPC § 115.5 and expedites the licensure application process for applicants who provide evidence they are married to, or in a domestic partnership or other legal

union with an active duty member of the Armed Forces who is assigned to a duty station in California. Standard operating procedures for the CBOT to process and review an application for licensure are that within 30-days of receipt of the application, the applicant is provided written notice whether the application is approved or deficient (16 CCR section 4112).

For applications falling under the provisions of BPC § 115.5, when the board is made aware of the military status, the CBOT self-imposes a 10-day goal to provide written notice to the applicant regarding the status of the application. (The CBOT's 10-day goal is not established or incorporated in regulation.) The CBOT does not currently have a way to track the number of applicants who seek expedited processing under this provision but the numbers are few. Upcoming enhancement to the BreZE system will allow staff to identify applications that require expedited processing pursuant to BPC § 115.5 and better provide statistical data in the future.

In accordance with parameters set forth in BPC § 115.5, the CBOT waives biennial renewal fees and the delinquent fee that may accrue during the time a licensee is called to active duty as a member of the United States Armed Forces or National Guard. A licensee can also request a continuing competence (continuing education) exemption provided in 16 CCR section 4163(b) if they have been absent from California for a period of a year or longer due to military service.

Recommendation 9: The CBOT should draft language and submit it to the Committee in order that the Committee can understand specifically how the CBOT desires to expand the definition.

CBOT Response: The CBOT believes the current definition of occupational therapy is adequate and does not need any amendments.

Recommendation 10: The Committee requests that the CBOT provide them with additional information, e.g. data from the ACOTE, about the advanced practice requirements and the minimum education standards.

CBOT Response: The CBOT will monitor minimum educational requirements established by ACOTE relative to California's advanced practice requirements. The CBOT will consider this issue when new information becomes available.

Major Changes:

- In February 2013, the CBOT moved its headquarters to a different suite within its building. Its new address is 2005 Evergreen Street, Suite 2250, Sacramento, CA 95815.
- Successfully implemented the BreZE online licensing database in January 2016.
- Increased staff by 7.5 positions to assist in the licensing and enforcement programs, effective July 1, 2016.
- Adopted its *2016-2019 Strategic Plan*.

CURRENT SUNSET REVIEW ISSUES FOR THE CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

The following are unresolved issues pertaining to the CBOT and other areas of concern for the Committees to consider along with background information concerning the particular issue. There are also recommendations the Committee staff have made regarding particular issues or problem areas which need to be addressed. The CBOT and other interested parties, including the professions, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

BUDGET ISSUES

ISSUE #1: *Will the CBOT's proposed regulatory fee increases support the health of its long-term fund condition? Are additional statutory changes required?*

Background: As stated above, the CBOT's new budget authority significantly increases its long-standing and intentional budget imbalance. Its recent fund condition projections indicate an insufficient fund reserve before the end of FY 2018/19. In response, the CBOT has established several new fees for services it provides.

In addition, it has proposed regulations to increase biennial renewal fees (its main source of revenue) and other licensing and service fees to meet its new budget authority and potential expenditure needs. The initial license, renewal, and inactive renewal fees will at first increase to \$220, then to \$270 in 2021. The pending fee increases are as follows:

Proposed Regulatory Fee Increases		
	Current	Proposed
OT Initial License	\$150	\$220
OT Biennial Renewal	\$150	\$220
OT Inactive Renewal	\$25	\$220
OT Initial License in 2021	-	\$270
OT Biennial Renewal in 2021	-	\$270
OT Inactive Renewal in 2021	-	\$270
OTA Initial License	\$150	\$180
OTA Biennial Renewal	\$150	\$180
OTA Inactive Renewal	\$25	\$180
OTA Initial License in 2021	-	\$210
OTA Biennial Renewal in 2021	-	\$210
OTA Inactive Renewal in 2021	-	\$210
Delinquent Renewal	\$75	\$100
Limited Permit	\$75	\$100
Duplicate License	\$15	\$25

Currently the CBOT charges \$25 for its initial license. However, it has been advised by its legal counsel that it does not have the statutory authority to charge a fee that is different from the active license. Per BPC §§ 462, 701, and 703, healing arts boards the active renewal fee must match the renewal for inactive licenses.

The CBOT also issues a retired license, which is like an inactive license except for the following: (1) the CBOT's regulations limit a licensee to two applications for a retired license; (2) retired licensees are statutorily exempt from renewal requirements; (3) retired licensees are permitted to use the title of OT as long as it contains the term "retired"; and (4) the initial license fee is set in statute at \$25. Therefore, the CBOT has not proposed increasing the fees for this category.

Staff Recommendation: *The CBOT should discuss its fund projections and fee audits with the Committee and explain whether the new fee structure will generate sufficient revenues to cover its costs. Further, the CBOT should inform the Committee of whether it believes the fee for the inactive license should match the normal renewal fee.*

ADMINISTRATIVE ISSUES

ISSUE #2: *Does the CBOT use its administrative committee to address any ongoing issues?*

Background: The CBOT has reported that it previously struggled with staffing and workload issues. One approach that boards take when dealing with administrative and operational issues is to establish a committee to investigate potential problems, work with staff, and make recommendations to the full board. Committees are more flexible, can meet more often, and can parse out details the full board may not have time to explore.

A committee can also be useful for boards that suffer from information bottlenecks, which can result in a lack of innovation or structural issues that remain unresolved. While daily administration is usually delegated to the EO, a committee can provide board members access to other staff and receive additional input and suggestions.

On the other hand, smaller boards that meet frequently may not benefit as much from committees. Requiring committee recommendations before the full board takes action could hinder efficiency when the board is well informed. Further, boards may have other ways to address these issues, negating the need for committees.

Staff Recommendation: *The CBOT should discuss how it uses its administrative committee to explore ongoing issues and whether it uses any other methods to improve board processes and promote the flow of information to and from the board members.*

LICENSING ISSUES

ISSUE #3: *Should the CBOT require licensees to verify their knowledge of the CBOT's rules and regulations, either through an attestation in the application or through an educational tool, such as continuing competence courses or an online assessment, to assist with its practice issues?*

Background: The CBOT reports that it spends approximately 59.6% of its budget on enforcement. During the CBOT's last review in 2012, the CBOT reported that most the

complaints received involved ethical issues, documentation, supervision (or lack thereof), aiding and abetting unlicensed practice, and failing to follow procedural license requirements, such as failing to complete continuing competence requirements or provide a timely address change.

The CBOT's latest report indicates that this is still the case. The CBOT has since tried to address this issue by performing outreach to employers, educational programs, and consumers regarding the importance of verifying licenses online prior to allowing someone to provide services. The CBOT notes, however, that many employers are still not diligent in routinely verifying licenses of employees.

In 2013, the committee staff was concerned about the high number of complaints relating to practice issues. Therefore, staff recommended that the CBOT "outline a plan to include a jurisprudence or ethics course as a required continuing education course for its licensees."

The CBOT's response to this issue as stated in its 2016 *Sunset Review Report* is as follows:

Rather than develop a state jurisprudence examination, the [CBOT] suggests an alternative: Require all applicants for licensure and renewing licensees to provide an 'attestation' on the application. This attestation would reflect the licensee they have read the laws and regulations relating to occupational therapy practice in California. Since a recent report issued by the Little Hoover Commission highlighted the importance of establishing defensible licensing requirements, the [CBOT] is awaiting further information from the DCA's Office of Professional Examination Services on the costs of an occupational analysis and examination audit.

Since the current application does not have an attestation, including one that may help incentivize applicants to become familiar with the laws and regulations. However, it may not help applicants and licensees who forget or do not fully understand the requirements.

As noted by committee staff in 2013, one way this could be accomplished is through its continuing competence requirements. However, this would also depend on the availability of providers.

Alternatively, the CBOT could work with DCA's SOLID unit to develop a mandatory training unit for applicants and renewing licensees. Last year, the Board of Professional Engineers, Land Surveyors and Geologists (BPELSG) sought statutory authority to administer an online assessment that would test its licensee's knowledge of regulatory and procedural requirements (see SB 1085 (Roth), Chapter 629, Statutes of 2016).

The assessment was meant to address similar compliance issues the CBOT experiences. The BPELSG noted that the assessment would not increase expenditures and had the potential to significantly decrease enforcement expenditures and cycle times. Further, the assessment had no pass/fail component. It was composed of a series of questions that, if answered incorrectly, would

guide the user to the correct answer. Ideally, the assessment will improve applicant and licensee compliance with regulatory and ethical rules by actively walking them through the questions.

Staff Recommendation: *The Committees may wish to require the CBOT to, at a minimum, amend its application to require an applicant to certify that the applicant has read and understands the laws and regulations. The CBOT should also explain whether requiring a continuing competence course in ethics or developing a non-pass/fail online assessment is feasible (in addition to or instead of an attestation).*

ISSUE #4: Are there duplicative requirements for out-of-state and military applicants that can be streamlined?

Background: The CBOT has noted that it does not have true reciprocity with other state licensing boards (recognition of out-of-state license by default). However, it utilizes the same educational and examination requirements as the NBCOT, which is also used by every other state. The only apparent difference is submitting to a separate background check and paying a state licensing fee.

Therefore, the CBOT states that all out-of-state applicants, military or not, must complete the same NBCOT certification requirements as all the other applicants. Further, the CBOT does not participate in the approval or development of NBCOT requirements, it simply accepts them because they are the only option under the statute.

However, an applicant licensed in another state or authorized to practice in the military will have already gone through at least two background checks (the NBCOT and the state license) and paid the fees for the NBCOT exam, background check, and the out-of-state license.

Staff Recommendation: *The CBOT should advise the Committees about the specific differences between the state requirements, the NBCOT requirements, and the known requirements of other states and whether there are any duplicative requirements that can be removed.*

ISSUE #5: Should the CBOT approve post-professional education courses?

Background: The CBOT has proposed amending the Practice Act to allow the CBOT to approve post-professional education providers, allowing them to describe their courses as "board approved." It would require the providers to submit an application and, if approved, renew every three years. It would also require an application for each individual course.

The language would have a delayed implementation date of one year (January 1, 2019) and establish the following fees:

- 1) An initial license fee of \$300.
- 2) A renewal fee of no more than \$550 per renewal.
- 3) A one-time review fee of no more than \$90 for each course reviewed.

Staff Recommendation: *The CBOT should discuss the approximate number of post-graduate training programs seeking approval, the subject areas, the approval criteria, and whether this*

will create disparate education standards between states. The CBOT should also complete the "Fee Bill Worksheet" required by the Committees.

ISSUE #6: *What has the CBOT discovered about current workforce trends since implementing its workforce survey?*

Background: Due to the redirection of staff during BreEZe implementation, the CBOT stated it has not been able to devote resources to exploring workforce issues. Once BreEZe was implemented in January 2016, the CBOT was able to incorporate a voluntary survey into the system to collect the following from initial applications and renewals:

- Employment Status.
- Location (zip code) of the primary place they practice and how many hours they work.
- Location (zip code) of any secondary place of practice and how many hours they work.
- Number of years worked.
- Self-employed and if so how many hours they work.
- Whether they have completed another degree beyond the qualifying degree.
- When they plan to retire.
- Areas of current practice.
- Ethnic background and foreign languages spoken.

Staff Recommendation: *The CBOT should discuss how it utilizes the demographic information and provide an update on any trends so far.*

ENFORCEMENT ISSUES

ISSUE #7: *Should the CBOT resume checking the National Practitioner Data Bank (NPDB) for adverse actions against applicants and licensees?*

Background: Previously, the CBOT looked up applicants and licensees on probation in the NPDB. The NPDB is a federal databank that records adverse actions taken against health care providers. Information includes medical malpractice payments; adverse actions related to licensure, clinical privileges, and professional society membership; DEA controlled substance registration actions; and exclusions from Medicare, Medicaid, and other federal health care programs.

The CBOT reports that it stopped using the NPDB in December 2013 due to the high cost and the lack of reports. However, the cost of using the NPDB has decreased to \$2 per query, making it more a more affordable consumer protection tool.

Staff Recommendation: *The CBOT should resume checking the NPDB and include the \$2 fee in the "Fee Bill Worksheet" required by the Committees.*

TECHNOLOGY ISSUES

ISSUE #8: *Is the CBOT concerned about ongoing BreEZe costs and implementation issues?*

Background: The CBOT reports it has successfully transitioned to BreEZe in January 2016 as a part of Release 2. However, it also reports that for over two years it redirected staff from other program areas and has had to reduce its workload in licensing, enforcement, workforce development, and outreach. As noted earlier, the CBOT has had to make adjustments to its enforcement processes, including reducing the number of CE audits it performs.

Further, BreEZe still requires troubleshooting. Currently, there are currently 12 change requests (System Investigation Requests or SIRs) pending that will add enhancements to the system in future releases. At the time the CBOT submit its report to the Committees, it reported that it has completed a total of 495 SIRs.

To handle the increased workload and address backlogs, the CBOT doubled its staff and plans to increase its fees. However, some boards, such as the Medical Board, utilize dedicated IT/BreEZe staff. This prevents the need for redirecting specialized staff for atypical tasks, prevents disruption of workflow, and helps improve individual expertise in BreEZe coding and querying. Other boards also contract with the Medical Board to utilize their dedicated BreEZe staff (e.g. the Board of Podiatric Medicine and the Physician Assistant Board).

Staff Recommendation: *The CBOT should discuss the ongoing costs and implementation issues related to BreEZe, whether the CBOT has considered utilizing staff dedicated to BreEZe, and whether dedicated BreEZe staff could be helpful and reduce the number of staff needed and need for fee increases.*

ISSUE #9: *Is there a way to disaggregate enforcement data to make it more useful?*

Background: While the CBOT has taken steps to try to meet its CPEI PM4 targets (discussed under Enforcement, above), the PM4 target is difficult to meet because there are other agencies involved and, depending on the complexity and severity of the case, there may be extended periods of time where the case is out of the CBOT's hands. In those cases, the CBOT is limited to communication with the outside agencies and diligently monitoring cases. Therefore, additional data is needed to determine where attention is needed.

Because of the way PM4 data is aggregated by the DCA, it is not useful for determining how long a case stays at a board before it is sent to other agencies further action. For instance, reported data does not currently show how long the AG's office takes to complete cases. However, the latest version of BreEZe has the ability to log cases in a way that can distinguish the average length of time the case spends at the desk investigation stage, the DOI, the AG, or the OAH. Incorporating the additional data points into the CPEI performance measures may assist in tailoring specific solutions.

In addition, there are some disciplinary actions that are not tracked in the performance measures, such as subsequent disciplinary actions. Subsequent disciplinary actions are actions taken against a licensee who is already subject to discipline, such as a probationer.

Staff Recommendation: *The CBOT should discuss whether it is currently possible to disaggregate enforcement data and, if not, whether the CBOT can work with other boards and the DCA to develop methods to do so. The CBOT should also discuss whether there are other disciplinary actions that should be tracked to provide a more accurate depiction of workload.*

ISSUE #10: *Should the CBOT use other technologies the DCA might have to improve submission compliance and processing times for primary source documentation?*

Background: Many boards have issues obtaining primary source documentation from outside organizations, such as certifying entities, schools submitting transcripts, and CE providers. One solution may be to utilize new tools for submitting documents to the board.

For instance, the DCA has had an online storage system, or “cloud” storage, that boards can use for document submission and distribution. Currently, a board can use the DCA cloud to provide board members lengthy meeting materials to save on postage and time. The new Executive Officer of the Board of Registered Nursing recently proposed an innovative solution to ease the receipt of information from third-party sources by allowing them to directly upload materials directly into a cloud that the DCA manages.

Staff Recommendation: *The CBOT should discuss whether it has considered using the DCA's cloud or other technology tools for primary source document submissions.*

ISSUE #11: *Should the CBOT utilize additional survey types to improve its survey response rates?*

Background: As noted during the CBOT’s prior sunset review and mentioned in its current *2016 Sunset Review Report*, the CBOT's consumer satisfaction survey has a very low response rate (51 in the last four FYs). A low response rate makes it difficult to develop an accurate picture. In response, the CBOT has begun taking steps to improve its response rate, such as utilizing email reminders, utilizing Quick Response (QR) codes, and self-addressed envelopes.

Still, there may be other avenues to utilize. The CBOT has stated that it will increase its use of Twitter, Facebook, and other technologies this year (2017). These platforms might be useful tools to host additional types of surveys.

Staff Recommendation: *The CBOT should advise the Committees on any contemplated solutions to the low consumer satisfaction survey response rates.*

ISSUE #12: *What impediments, other than timing and planning, impact the CBOT's ability to webcast its meetings?*

Background: Webcasting is a commonly used and helpful tool for licensees, consumers, and other stakeholders to monitor boards in real-time and better participate when unable to physically attend meetings. While meetings are split between northern and southern California, there are only a few meetings per year and travel to and from meetings can be difficult. As a result, webcasting provides greater access. It also improves transparency and provides a level of detail that cannot be captured in the board-approved minutes.

In 2013, the Committees noted that the CBOT webcasts very few meetings and recommended that it webcast more frequently. However, the CBOT reports that it was still unable to do so due to limited DCA resources. It has only webcasted four meetings since 2012 (five years). While no action was taken until this year, the CBOT has noted that it selected its 2017 meeting dates earlier than in years past in hopes that it will be able to webcast more frequently this upcoming year.

Staff Recommendation: *The CBOT should advise the Committees on specific instances in the past four years when the DCA did not have enough resources to assist with webcasting when requested, why the CBOT was not able to select early meeting dates in the past four years, and any other impediments the CBOT faces when trying to webcast its meetings.*

EDITS TO THE PRACTICE ACT

ISSUE #13: *Should the Practice Act be amended to change the CBOT's ratio of public members to professional members?*

Background: There has been a lot of recent discussion surrounding board composition. In February 2015, the U.S. Supreme Court's decision in *North Carolina State Board of Dental Examiners v. Federal Trade Commission* (FTC), and the FTC's subsequent guidance²⁷ on the issues, opened discussions on the potential for anti-competitive decisions by state licensing boards. In the case, the Court ruled that the dentist-controlled Board of Dental Examiners did not qualify for state-action immunity for violations of the Sherman Antitrust Act²⁸ because the Board was not actively supervised by the state.

However, California DCA boards are structured differently and have more inherent protections than the NC Board. Further, the subsequent FTC guidance suggests that even a single

²⁷ Federal Trade Commission, *FTC Staff Guidance on Active Supervision of State Regulatory Boards Controlled by Market Participants* (October 2015), <https://www.ftc.gov/system/files/attachments/competition-policy-guidance/active-supervision-of-state-boards.pdf>.

²⁸ 26 Stat. 209, 15 U.S.C. §§ 1-7.

professional member can still be a “controlling majority,” so board composition is not likely the solution to the immunity issue.

Still, the Little Hoover Commission has noted the potential barriers to entry into a profession and the potential for protectionism that boards present,²⁹ so there may still be benefits to restructuring the boards. Rebalancing licensing boards so that they have a public member majority could do this by increasing the weight of the consumer perspective and increasing the focus on operational efficiency. While every board is different, it is not uncommon for public members to defer to professional members on issues that do not require specific subject matter expertise, such as administration and management.

However, smaller boards or boards of lesser-known professions may have a difficult time recruiting public members. To deal with this, boards can establish practice committees (which the CBOT has) that can be used to fill the gaps in subject matter expertise. Alternatively, some boards might utilize panels of experts during hearings if immediate assistance is necessary.

However, other solutions may also be needed. Improvements to the appointments process might assist with potential recruitment, and additional training can assist with management and administrative issues. For instance, the appointing body or the DCA could help prepare a robust, ongoing training or helpful documentation to help attract and improve the retention of public members.

Staff Recommendation: *The CBOT should discuss the pros and cons of rebalancing the ratio of board members and discuss any other potential areas that might need to be addressed, such as recruitment, the appointment process, and board member training.*

ISSUE #14: *Are there technical changes that can be made to the Practice Act that may improve the CBOT's operations?*

Background: The CBOT has indicated in its 2016 Sunset Review Report that there are a number of changes to its Practice Act that it would like to request. It states that it has identified several statutory changes that would enhance or clarify the Practice Act assist or assist with consumer protection.

Staff Recommendation: *The CBOT should continue to work with the Committees on the submitted proposals.*

²⁹ Little Hoover Commission, *Jobs for Californians: Strategies to Ease Occupational Licensing Barriers*, Report #234, 22-23 (2016), available at <http://www.lhc.ca.gov/studies/234/Report234.pdf>.

CONTINUED REGULATION OF THE PROFESSION

ISSUE #15: *Should the State continue to license and regulate OTs and OTAs? If so, should the Legislature continue to delegate this authority to the CBOT and its current membership?*

Background: The CBOT has shown a commitment to its mission and a willingness to work with the Legislature to improve consumer protection. However, there is always room for improvement. The CBOT's recent implementation of BreEZe and increased staff should improve the CBOT's operations, but the CBOT should continue to seek ways to improve its budget, efficiency, and consumer outreach, including reducing its enforcement backlogs by the proposed December 2017 date noted in its *2016 Sunset Review Report*.

Staff Recommendation: *The CBOT should continue to regulate OTs and OTAs in order to protect the interests of the public for another four years and should update the Committees on its progress at that time.*

AGENDA ITEM 6

NBCOT NAVIGATOR[®] ONLINE CONTINUING COMPETENCY TOOLS.

The following are attached for review:

- NBCOT Navigator: Tool Descriptions and Assessment Objectives
- NBCOT 2012 Certification Renewal Practice Analysis Study – Executive Summary
- Various states PDU information

NBCOT[®]

THE NBCOT NAVIGATOR[™]

This document outlines general descriptions and assessment objectives for the competency assessment tools contained in The NBCOT Navigator.

Tool Descriptions
and Assessment
Objectives

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National Board for Certification in Occupational Therapy, Inc.

12 S Summit Ave Suite 100

Gaithersburg, MD 20877

www.nbcot.org

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INTRODUCTION

The National Board for Certification in Occupational Therapy, Inc. (NBCOT®), the national certification body for occupational therapy professionals in the United States, has created a virtual platform for its certificants to engage in continuing competency assessment. NBCOT, like other healthcare professions, recognizes certificants face ongoing pressures of accountability and advances in practice, which in turn necessitates the ongoing need for skill development and demonstrated continuing competence throughout a certificant's career.

During 2012, in response to the Institute of Medicine (IOM) reports, *Health Professions Education: A Bridge to Quality, 2003* and *Redesigning Continuing Education in the Health Professions, 2010*, NBCOT completed a practice analysis study. The study identified six key areas for focus: providing client-centered care, working in interprofessional teams, employing evidence-based practice, applying quality improvement, utilizing informatics, and promoting professional responsibility. The findings supported the creation of a competency assessment platform, the goals of which were to create an innovative and dynamic delivery platform designed to: offer accessible, engaging, and dynamic assessment tools; support a certificant's practice throughout his or her professional career; provide feedback on current practice skills; and introduce certificants to evidence-based resources.

With neither an existing platform nor content to meet its needs, NBCOT embarked on a groundbreaking journey to design, develop, and deliver the virtual platform and all of its supporting content from initial concept through deployment. The system initially beta-tested during the last quarter of 2014, went live in June 2015, and includes a web-based assessment delivery engine, certificant dashboard, and interfaces that support a variety of tools, including self-reflective assessments, mini practice quizzes, case simulations, and mini games.

The tools are available, at no charge, to individuals currently certified as an Occupational Therapist Registered OTR® or Certified Occupational Therapy Assistant COTA® and can be accessed through the MyNBCOT portal. Competency Assessment Units (CAU) are awarded for successful completion of tools. A certificant has the option to accrue up to a maximum of 14 Competency Assessment Units (CAU) per renewal period by completing tools in the NBCOT Navigator™ to use towards their NBCOT certification renewal requirements.

The purpose of this document is to provide an outline of general descriptions and assessment objectives for the competency assessment tools contained in the NBCOT Navigator. For more tool-specific information, please go to www.nbcot.org/navigator-tools.

GENERAL TOOL DESCRIPTIONS AND ASSESSMENT OBJECTIVES

PICO

Tool Description

This tool contains a series of simulated games introducing the certificant to the process of evaluating appropriate, evidence-based research in order to make informed decisions about OT practice.

Competency Assessment Objectives

By completing a PICO game, certificants will assess their skills to:

1. Formulate an effective search question.
2. Complete an evidence-based literature search.
3. Identify best evidence to answer a practice-related question.

Criteria for Earning CAU Credit

Certificants can earn 0.5 NBCOT Competency Assessment Unit (CAU) by successfully completing one PICO game. A maximum of 2 CAU can be earned by successfully completing all four PICO games within one renewal cycle. There is no limit to the number of times a certificant can play a PICO game.

MINI PRACTICE QUIZZES

Tool Description

These short multiple-choice quizzes are designed to assess knowledge of contemporary OT practice grounded by evidence-based literature. Topic quizzes cover the major practice areas identified in the NBCOT Certification Renewal Practice Analysis Study and include: pediatrics, school system, administration/management, acute care, rehabilitation, education/research, work/industry, wellness, and home health.

Competency Assessment Objectives

By completing a MINI PRACTICE QUIZ, certificants will assess their skills to:

1. Examine topics relating to contemporary OT practice.
2. Identify practice areas for continued professional development.
3. Access evidence-based resources for ongoing continuing competence.

Criteria for Earning CAU Credit

Certificants can earn 0.5 NBCOT Competency Assessment Unit (CAU) by successfully completing one mini practice quiz. A maximum of 6 CAU can be earned within one renewal cycle with one attempt allowed per each mini practice quiz.

Case Simulations

Tool Description

Case simulations bring OT practice to life with a focus on clinical reasoning. Each case simulation starts with an opening scene providing background information about the scenario. This is followed by a series of modules that engage the certificants in providing OT services with a virtual client. Modules may include: client interviews and chart reviews; selection of appropriate screening and assessment tools; completion of evaluations; interpretation of assessment results; interprofessional team discussions; intervention planning; provision of intervention services; and discharge planning.

Competency Assessment Objectives

By completing a CASE SIMULATION, certificants will assess their skills to:

1. Demonstrate the use of clinical reasoning to provide evidence-based OT services.
2. Identify practice areas for continued professional development.
3. Access evidence-based resources for ongoing continuing competence.

Criteria for Earning CAU Credit

Certificants can earn 1 NBCOT Competency Assessment Unit (CAU) by successfully completing one Case Simulation. A maximum of six case simulations, or 6 CAU, can be earned within one renewal cycle.

MINI GAMES

Tool Description

Mini games involve assessment of specific practice knowledge. Each game is uniquely designed for its specific topic. The OT Knowledge Library, for example, is a stylized matching tool covering a broad range of occupational therapy knowledge. Another mini game, Orthotic Builder, assesses knowledge to select optimal orthosis and make best practice decisions to support clients recovering from a range of Upper extremity conditions. Coming soon: Management Challenge and Physical Agent Modalities.

Competency Assessment Objectives

(Note - Each mini game will have distinct objectives. Those listed here are general and for illustrative purposes.)

By completing a mini game, certificants will assess their skills to:

1. Apply appropriate practice-based OT knowledge.
2. Identify practice-based knowledge areas for further learning.
3. Access evidence-based resources for ongoing continuing competence.

Criteria for Earning CAU Credit

View respective mini games in the Navigator for details of CAU awarded.

For the OT Knowledge Library, certificants can earn 0.25 NBCOT Competency Assessment Unit (CAU) for each game successfully completed. A maximum of 2 CAU can be earned within one renewal period.

NBCOT[®]

National Board for Certification in
Occupational Therapy

2012

Certification Renewal
Practice Analysis
Study

Executive Summary

National Board for Certification in Occupational Therapy

Executive Summary: 2012 Certification Renewal Practice Analysis Study

Castle Worldwide, Inc.

May 22, 2012

The National Board for Certification in Occupational Therapy, Inc. (NBCOT) is a not-for-profit credentialing agency that provides certification for the occupational therapy profession. Consistent with its mission, NBCOT operates a Certification Renewal Program (CRP) that applies to all certificants, with requirements and procedures detailed in NBCOT's Certification Renewal Handbook 2012.

Through their participation in the CRP, occupational therapy professionals should enhance their ability to reflect critically on, appropriately validate, and effectively act on practice-related beliefs, interpretations, values, feelings, and ways of thinking about practice-related issues. The CRP may be understood as an organized effort to assist occupational therapy professionals to acquire new professional knowledge and to enhance their understandings, skills, and dispositions even for familiar concepts and techniques. The objective is that occupational therapy professionals participating in the program will translate new knowledge into practice in such a way that it becomes embedded in their performance and leads to improved outcomes for clients and other stakeholders.

The certification renewal practice analysis is expected to serve two major purposes: to provide the basis for demonstrating the job relatedness of NBCOT's certification renewal program in a logical and defensible way and to give direction for individualized programs of continuing professional development.



ANSI Accredited Program
PERSONNEL CERTIFICATION



Initial Development and Evaluation

NBCOT convened a two-day meeting (July 28 and 29, 2011) of the certification renewal task force, a panel of leaders in occupational therapy and certification, to define the responsibilities and cognitive expectations of occupational therapy professionals at the level of certification renewal. The group reviewed the target audience for certification renewal and developed a common understanding of key terms related to practice analysis study. Then the group reached consensus on domains, the major responsibilities that occupational therapy professionals have when they renew their credentials.

The first five domains listed below were identified by the Institute of Medicine Committee on Health Professions Education (Health Professions Education: A Bridge to Quality, 2003) and recommended in Redesigning Continuing Education in the Health Professions as an appropriate basis for building a continuing education system in health care (Committee on Planning a Continuing Health Professional Education Institute, 2010). The sixth domain was added as a result of the consensus of the group after considerable discussion.

NBCOT then convened a second group, called the practice analysis panel, which comprised certificants with expertise in occupational therapy and experience with the entry-level examination programs. The practice analysis panel met on September 23 and 24, 2011, to draft and refine task statements for each domain. A task statement defines an activity that elaborates upon a domain. The set of task statements in a domain offers a comprehensive and detailed description of the domain. For each task statement, the group developed a list of the knowledge and skill that individuals who are renewing NBCOT certification should have in order to perform the task proficiently.

Using the domains and tasks as decided by the certification renewal practice analysis panel, Castle developed an online survey. The survey included two scales that address key issues of concern in certification: criticality and frequency. The scales are defined specifically as:

Criticality: To what degree would the inability of the occupational therapy professional who is renewing certification to perform duties in each domain or task be seen as causing harm to stakeholders? (Harm may be seen as physical, psychological, emotional, legal, financial, etc.)

- 1 = No harm
- 2 = Minimal harm
- 3 = Moderate harm
- 4 = Substantial harm
- 5 = Extreme harm

Frequency: Frequency refers to how often the occupational therapy professional who is renewing certification performs duties in each of the domains or tasks, considering a one-year period. The following scale is used to record frequency:

- 1 = Never
- 2 = Rarely (once per year)
- 3 = Sometimes (monthly)
- 4 = Often (weekly)
- 5 = Repeatedly (daily)

Sampling Strategy and Participants in the Survey

Castle sent an invitation to 2508 Occupational Therapists Registered OTR® and 1396 Certified Occupational Therapy Assistants COTA® to participate in the validation survey, given a PDU incentive. The survey invitation was sent on March 15, 2012 (there were eight bouncebacks), with follow-up reminders sent on March 29, April 12, and April 23. The survey remained open through April 23, 2012. The response rate was very high: 1929 OTRs (76.9%) and 1047 COTAs (75.0%) provided usable data. Tables 1 through 4 present demographics.

The average number of years of certification reported for OTR respondents is 11.5, and the average for COTAs in the survey is 11.9. The group of OTR respondents spans a broader range of years of certification than COTA respondents.

Table 1. How many years have you held your current NBCOT certification? (Please enter only a whole number greater than zero.)

	OTR	COTA
Count	1923	1042
Minimum	0	1
Maximum	53	48
Mean	11.5	11.9
SE Mean	0.2	0.3
Std Dev	9.6	8.6
Median	8	9

Nearly all respondents in both groups hold current licenses in their state.

Validation Findings

Occupational Therapists Registered OTR®

Data collected from OTR respondents indicate overall support for domains. All six were seen as having moderate to substantial criticality, and OTRs are engaged in these responsibilities at least once per week, if not daily.

As for task ratings by OTRs responding to the survey, all in the first domain (Provide Client-Centered Care) have moderate to substantial criticality except for exploring alternative delivery models (task 8). There are three tasks for the second domain, Work in Interprofessional Teams. On average, respondents indicate the tasks are associated with moderate harm if performed poorly. Results also indicate the tasks are performed often, about once per week. An OTR's inability to perform the tasks within Employ Evidence-Based Practice, the third domain, is seen by respondents as having moderate consequences. The tasks are performed monthly.

Reviewing statistics for the tasks in Apply Quality Improvement suggests that these tasks are of moderate criticality and performed often. Adhering to principles of safety stands out as an exception for both scales in this domain. Utilize Informatics, the fifth domain, is seen by the OTR survey group as having moderate importance, on average, with mean frequency estimates of between once per month and once per week. Tasks in the last domain, Professional Responsibility, range in criticality—poor performance in some results in moderate harm, while others may result in substantial harm. OTR respondents report being involved with tasks in this domain from about monthly to nearly every day.

Certified Occupational Therapy Assistants COTA®

COTAs responding to the survey evaluated the domains as having substantial criticality and report that they engage in these responsibilities on a regular basis. The domains with the highest overall ratings are Provide Patient-Centered Care and Apply Quality Improvement, and the lowest ratings overall are for Employ Evidence-Based Practice.

The COTA group rated the tasks in Domain I, Provide Patient-Centered Care, as having moderate to substantial criticality. They indicated further that the tasks are performed reasonably often. However, the group's ratings were lowest for the task of exploring alternative service delivery models on both scales. With average ratings just under three, COTA participants indicate that error in the performance of tasks in Work in Interprofessional Team, the second domain, would result in moderate harm. Frequency ratings indicate that these responsibilities are performed about once per week. Ratings for tasks in the domain of Employ Evidence-Based Practice have the lowest criticality and frequency overall. Here COTA respondents report that error in performing tasks would have minimal to moderate consequence, even though the tasks are performed about once per month to once per week.

Table 4. Indicate your primary practice setting. (Primary is defined as where your work more than half of your time.)

Setting	OTR		COTA	
	Count	Percent	Count	Percent
Administration and/or management	61	3.2	14	1.4
Education and/or Research	37	1.9	17	1.6
Geriatric Setting: Home Health	129	6.8	58	5.6
Geriatric Setting: Skilled Nursing	358	18.8	432	41.7
Health and Wellness Facility	11	0.6	9	0.9
Mental Health Setting: Inpatient	38	2.0	19	1.8
Mental Health Setting: Community Based	27	1.4	4	0.4
Orthopedic Setting: Inpatient	34	1.8	11	1.1
Orthopedic Setting: Outpatient	105	5.5	25	2.4
Pediatric Setting: Acute	29	1.5	4	0.4
Pediatric Setting: Early Intervention	96	5.0	11	1.1
Pediatric Setting: Outpatient	125	6.6	27	2.6
Pediatric Setting: School Based	455	23.9	196	18.9
Rehabilitation Setting: Inpatient	303	15.9	164	15.8
Rehabilitation Setting: Outpatient	87	4.6	41	4.0
Work/Industry/Ergonomics	11	0.6	4	0.4
Total	1906	100.0	1036	100.0

Validation Findings

Occupational Therapists Registered OTR®

Data collected from OTR respondents indicate overall support for domains. All six were seen as having moderate to substantial criticality, and OTRs are engaged in these responsibilities at least once per week, if not daily.

As for task ratings by OTRs responding to the survey, all in the first domain (Provide Client-Centered Care) have moderate to substantial criticality except for exploring alternative delivery models (task 8). There are three tasks for the second domain, Work in Interprofessional Teams. On average, respondents indicate the tasks are associated with moderate harm if performed poorly. Results also indicate the tasks are performed often, about once per week. An OTR's inability to perform the tasks within Employ Evidence-Based Practice, the third domain, is seen by respondents as having moderate consequences. The tasks are performed monthly.

Reviewing statistics for the tasks in Apply Quality Improvement suggests that these tasks are of moderate criticality and performed often. Adhering to principles of safety stands out as an exception for both scales in this domain. Utilize Informatics, the fifth domain, is seen by the OTR survey group as having moderate importance, on average, with mean frequency estimates of between once per month and once per week. Tasks in the last domain, Professional Responsibility, range in criticality—poor performance in some results in moderate harm, while others may result in substantial harm. OTR respondents report being involved with tasks in this domain from about monthly to nearly every day.

Certified Occupational Therapy Assistants COTA®

COTAs responding to the survey evaluated the domains as having substantial criticality and report that they engage in these responsibilities on a regular basis. The domains with the highest overall ratings are Provide Patient-Centered Care and Apply Quality Improvement, and the lowest ratings overall are for Employ Evidence-Based Practice.

The COTA group rated the tasks in Domain I, Provide Patient-Centered Care, as having moderate to substantial criticality. They indicated further that the tasks are performed reasonably often. However, the group's ratings were lowest for the task of exploring alternative service delivery models on both scales. With average ratings just under three, COTA participants indicate that error in the performance of tasks in Work in Interprofessional Team, the second domain, would result in moderate harm. Frequency ratings indicate that these responsibilities are performed about once per week. Ratings for tasks in the domain of Employ Evidence-Based Practice have the lowest criticality and frequency overall. Here COTA respondents report that error in performing tasks would have minimal to moderate consequence, even though the tasks are performed about once per month to once per week.

When rating overall domains, COTA respondents gave Apply Quality Improvement substantially high ratings for criticality and frequency. At the task level, however, the ratings for the tasks addressing the process of quality improvement are fairly low on the criticality scale. These tasks are all performed with reasonable frequency. For the next domain, the COTA group reported that tasks related to the use of informatics have between minimal and moderate criticality but are performed about once per month or once per week, depending on the task. Tasks in Professional Responsibility have variability in average criticality ratings but tend toward moderate harm, while they are performed frequently.

A complete list of domains and tasks is presented below (knowledge and skill lists for each task to be listed in final report).

Table 5: Domains and Tasks with Mean Criticality and Frequency Ratings

Domain and Task List	Mean Criticality	Mean Frequency
Provide Client-Centered Care: Identify, respect, and care about clients' differences, values, preferences, and expressed needs; relieve pain and suffering; coordinate continuous care; listen to, clearly inform, communicate with, and educate clients; share decision making and management; and continuously advocate disease prevention, wellness, and promotion of healthy lifestyles, including a focus on population health.	OTR 3.8 COTA 3.5	OTR 4.8 COTA 4.8
1. Identify the occupational needs of the client by collecting, analyzing, and interpreting data using tools that are appropriate for the setting, population, and condition(s) in order to establish client-centered goals.	OTR 3.5 COTA 3.1	OTR 4.5 COTA 4.4
2. Collaborate with the client in the design of interventions that encompass factors identified during the evaluation process in order to motivate the client to participate in the therapeutic process.	OTR 3.0 COTA 2.8	OTR 4.5 COTA 4.4
3. Implement evidence-based, client-centered, and theory-driven interventions consistent with the plan of care in order to progress toward established goals.	OTR 3.2 COTA 3.0	OTR 4.6 COTA 4.5

Domain and Task List	Mean Criticality	Mean Frequency
4. Reassess the client using established methods in order to evaluate the effectiveness of the interventions and determine what, if any, additional services are required.	OTR 3.1 COTA 2.9	OTR 4.0 COTA 4.0
5. Modify the plan of care based on the client's response to interventions in order to maximize occupational outcomes.	OTR 3.3 COTA 2.9	OTR 4.3 COTA 4.2
6. Advocate wellness and health promotion by educating clients and other stakeholders in order to maximize lifelong occupational performance.	OTR 2.7 COTA 2.6	OTR 4.0 COTA 4.2
7. Communicate occupational therapy processes by documenting relevant client-centered information in order to facilitate and coordinate care.	OTR 3.0 COTA 2.9	OTR 4.6 COTA 4.5
8. Explore alternative service delivery models through personal research in order to improve access to occupational therapy services.	OTR 2.2 COTA 2.1	OTR 3.1 COTA 3.2
9. Respect cultural and contextual diversity by collaborating with the client throughout the occupational therapy process in order to provide client-centered services.	OTR 3.1 COTA 2.9	OTR 4.6 COTA 4.5
Work in Interprofessional Teams: Cooperate, collaborate, communicate, and integrate care in teams to ensure that care is continuous and reliable.	OTR 3.4 COTA 3.2	OTR 4.6 COTA 4.6
1. Articulate the role of the occupational therapy professional and how it contributes to the interprofessional team within the scope of practice in order to ensure coordinated and effective services.	OTR 2.8 COTA 2.6	OTR 4.1 COTA 4.1
2. Synthesize comprehensive evaluation results and recommendations from the collaborative effort of the interprofessional team using a coordinated intervention design in order to establish client-centered occupational therapy outcomes.	OTR 3.0 COTA 2.8	OTR 4.0 COTA 3.8

Domain and Task List	Mean Criticality	Mean Frequency
3. Implement interprofessional team strategies using best practices and clear communication in order to ensure coordinated and effective services.	OTR 3.1 COTA 2.9	OTR 4.3 COTA 4.3
Employ Evidence-Based Practice: Integrate best research with clinical expertise and client values for optimum care, and participate in learning and research activities to the extent feasible.	OTR 3.0 COTA 2.7	OTR 3.7 COTA 3.6
1. Identify elements of individual practice that require exploration of evidence through self-reflection on current knowledge, skill, and experience in order to support clinical decision making and to enhance competence.	OTR 2.9 COTA 2.7	OTR 3.6 COTA 3.7
2. Formulate a specific question(s) based on individual practice in order to focus the process of gathering evidence.	OTR 2.3 COTA 2.2	OTR 3.2 COTA 3.4
3. Gather the available evidence, consulting a variety of professional resources, including research, expert opinion, and history of outcomes, in order to synthesize current information relevant to the question.	OTR 2.4 COTA 2.3	OTR 3.0 COTA 3.2
4. Appraise the quality and applicability of information gathered in relation to the question using established standards in order to inform practice.	OTR 2.4 COTA 2.3	OTR 3.0 COTA 3.2
5. Apply best evidence in accordance with client needs in order to answer the question and facilitate collaborative decision making.	OTR 2.8 COTA 2.6	OTR 3.7 COTA 3.8
6. Assess the efficacy of the evidence-based intervention by measuring outcomes in order to determine the need for further evidence.	OTR 2.6 COTA 2.5	OTR 3.2 COTA 3.4

Domain and Task List	Mean Criticality	Mean Frequency
Apply Quality Improvement: Identify errors and hazards in care; understand and implement basic safety design principles, such as standardization and simplification; continually understand and measure quality of care in terms of structure, process, and outcomes in relation to client and community needs; and design and test interventions to change processes and systems of care, with the objective of improving quality.	OTR 3.7 COTA 3.5	OTR 4.1 COTA 4.2
1. Identify contextual and professional areas for improvement using established standards in order to improve the effectiveness of care.	OTR 2.9 COTA 2.7	OTR 3.3 COTA 3.6
2. Collect data using quality improvement parameters in order to measure the effectiveness of care.	OTR 2.6 COTA 2.5	OTR 3.1 COTA 3.4
3. Synthesize quality improvement data using appropriate analytical techniques in order to identify strategies to enhance the effectiveness of care.	OTR 2.5 COTA 2.4	OTR 2.9 COTA 3.2
4. Implement identified quality improvement strategies consistent with their design in order to enhance the effectiveness of care.	OTR 2.7 COTA 2.5	OTR 3.2 COTA 3.5
5. Assess the effectiveness of quality improvement strategies using relevant data and analytical techniques in order to identify further improvements.	OTR 2.5 COTA 2.4	OTR 2.9 COTA 3.2
6. Adhere to principles of safety consistent with established protocol using situational decision making in order to reduce risk and protect stakeholder.	OTR 3.8 COTA 3.5	OTR 4.5 COTA 4.6

Domain and Task List	Mean Criticality	Mean Frequency
Utilize Informatics: Communicate, manage knowledge, mitigate error, and support decision making using information technology.	OTR 2.9 COTA 2.8	OTR 4.3 COTA 4.3
1. Acquire knowledge of health informatics using available educational resources in order to be competent in use and access.	OTR 2.7 COTA 2.7	OTR 3.5 COTA 3.5
2. Input pertinent data accurately into the information system by following established protocols in order to enhance communication and prevent error.	OTR 3.2 COTA 3.1	OTR 4.3 COTA 4.3
3. Extrapolate data from all pertinent sources by accessing information systems in order to analyze and interpret data for professional applications.	OTR 2.7 COTA 2.6	OTR 3.5 COTA 3.5
4. Disseminate relevant findings to stakeholders using appropriate media in order to enhance knowledge and support effective decision making.	OTR 2.5 COTA 2.5	OTR 3.2 COTA 3.3
Professional Responsibility: Promote the profession, advocate for the client, maintain competence, adhere to professional code(s) of conduct, mentor students and professionals, and act to protect the interests of the client.	OTR 3.7 COTA 3.3	OTR 4.6 COTA 4.6
1. Enhance professional competence through self-reflection and other professional development activities in order to employ best practices.	OTR 3.1 COTA 2.8	OTR 3.5 COTA 3.7
2. Recognize the boundaries of personal competence and scope of occupational therapy practice by making referrals as indicated in order to support best outcomes for stakeholders and maintain a high standard of care.	OTR 3.5 COTA 3.1	OTR 4.2 COTA 4.3
3. Adhere to professional codes of conduct and regulations by maintaining current knowledge of these topics and exercising sound professional judgment in order to protect all stakeholders.	OTR 3.7 COTA 3.3	OTR 4.5 COTA 4.6

Domain and Task List	Mean Criticality	Mean Frequency
4. Educate stakeholders about the scope of practice for occupational therapy through public education and community involvement in order to promote informed decisions about care.	OTR 2.6 COTA 2.4	OTR 3.0 COTA 3.2
5. Mentor students, junior colleagues, and interprofessional team members by educating, modeling, and coaching in order to enhance professional competence and maintain a high standard of care.	OTR 2.8 COTA 2.6	OTR 3.3 COTA 3.3
6. Support stakeholders through advocacy activities in order to promote access to needed services and comprehensive coverage.	OTR 2.5 COTA 2.4	OTR 2.9 COTA 3.1

Conclusion

Participants in the survey were certified OTR and COTA professionals and motivated to complete the survey. The response rate was high, there were few questions during the data collection period about accessing or navigating the survey or about key concepts. These findings support the utility of the data they provided for making decisions about the CRP.

In general, the OTR respondents evaluate the domains and tasks as having substantial relevance, while the COTA group's ratings indicate that some areas of practice have less pertinence to their practice. In particular, the domain Employ Evidence-Based Practice was seen as relatively less consequential than the other domains for the COTA group. Further, particular tasks in the survey have low criticality for the COTA group. With these possible exceptions, data from the survey support the validity of the domains and tasks as they apply to certification renewal in the two programs.

OCCUPATIONAL THERAPY PROFESSION—CONTINUING COMPETENCE REQUIREMENTS

Alaska

(f) The following activities will not be accepted for continuing education contact hours under this section:

- (1) routine staff meetings attended by the applicant;
- (2) rounds conducted by the applicant;
- (3) routine courses required for employment, including courses on cardiopulmonary resuscitation, first aid, and training related to Occupational Safety and Health Administration requirements.

12 AAC 54.715. APPROVED OCCUPATIONAL THERAPY COURSES AND ACTIVITIES.

(a) The following continuing education activities are approved for continuing education credit if they meet the requirements of (c) of this section:

(1) courses recognized by

- (A) the Alaska Occupational Therapy Association;
- (B) the American Occupational Therapy Association;
- (C) the World Federation of Occupational Therapy;
- (D) the National Board for Certification in Occupational Therapy (NBCOT);
- (E) other state occupational therapy associations; or
- (F) other state occupational therapy licensing boards;

(2) continuing education activities sponsored by a professional organization or university approved by the Alaska Occupational Therapy Association or the American Occupational Therapy Association.

(b) If an applicant for renewal is uncertain whether a particular continuing education opportunity will meet the standards of this section, the applicant may request board approval before claiming those contact hours.

(c) To be accepted by the board, a continuing education course or activity must contribute directly to the professional competency of an occupational therapist or occupational therapy assistant and must be directly related to the skills and knowledge required to implement the principles and methods of occupational therapy.

AC 54.720. AUDIT OF OCCUPATIONAL THERAPY CONTINUING COMPETENCY REQUIREMENTS.

- (a) After each renewal period the board will, in its discretion, audit renewal applications to monitor compliance with the continuing competency requirements of 12 AAC 54.700 - 12 AAC 54.720.
- (b) A licensee selected for audit shall, within 30 days after the date of notification, submit documentation that verifies completion of the contact hours claimed under 12 AAC 54.710 and occupational therapy service hours or an alternative required under 12 AAC 54.705.
- (c) Refusal to cooperate with an audit will be considered an admission of an attempt to obtain a license by material misrepresentation under AS 08.84.120(a)(1).

OCCUPATIONAL THERAPY PROFESSION—CONTINUING COMPETENCE REQUIREMENTS

Mississippi

the licensure period. No carryover of continuing education hours from one licensure period to another shall be allowed. At least 30 percent (6 Contact Hours or .6 CEU) of the required continuing education must be directly related to the clinical practice of occupational therapy. The six (6) contact hours related to clinical practice shall be live face-to-face training i.e., no internet training, video training, television training, etc. Of the remaining required 14 hours of training, 50 percent or 7 hours may be non live face-to-face training. Non live training may include home study courses, video, internet, etc. All training shall be from approved sources.

2. Individuals applying for initial licensure within a licensing term must accrue continuing education hours on a prorated scale. Written notification of required hours will be sent to the applicant at the time of licensure.

3. Persons who fail to accrue the required continuing education hours shall be issued a CE probationary license for the licensure term. Failure to accrue the required hours during the CE probationary period will result in the revocation of the license. Hours accrued are first credited for the delinquent hours lacking from the previous licensure period, and then applied to the current (CE probationary) licensing period.

4. CE probationary licenses will be issued for one licensure term only. No ensuing license may be CE probationary as a result of not meeting continuing education requirements.

Rule 8.7.3 Content Criteria: The content must apply to the field of occupational therapy and performance and must be designed to meet one of the following goals:

1. Update knowledge and skills required for competent performance beyond entry level as described in current legislation and regulations.
2. Allow the licensee to enhance his knowledge and skills.
3. Provide opportunities for interdisciplinary learning.
4. Extend limits of professional capabilities and opportunities.
5. Facilitate personal contributions to the advancement of the profession.

Rule 8.7.4 Sources of Continuing Education: Continuing education hours may be accrued from the following sources, when the content of the programs relates to the profession of occupational therapy:

1. Attendance at educational programs:
 - a. Attendance at educational programs where continuing education credit is given and approved by the Mississippi Occupational Therapy Association (MSOTA).
 - b. Attendance at educational programs where continuing education credit is given and approved by the American Occupational Therapy Association (AOTA), including other state association educational programs.
 - c. Attendance at educational programs where continuing education credit is given and/or approved by the National Board for Certification in Occupational Therapy (NBCOT).

OCCUPATIONAL THERAPY PROFESSION—CONTINUING COMPETENCE REQUIREMENTS

New
Hampshire

experience, or training established by the board in rules adopted pursuant to RSA 541-A.

II. The board shall approve continuing education programs approved through the American Occupational Therapy Association's approved provider program.

Regulation: NW Admin Rules Occ 303, 402, 406

Occ 303.02 Continuing Competence Requirements.

(a) Continuing competence shall be maintained by applicants who:

- (1) Passed the NBCOT examination described in Occ 303.01(b)(4) more than 52 weeks before submitting the application-form part of the application packet; and
- (2) Have not practiced as an occupational therapist or occupational therapy assistant since passing the examination.

(b) If more than 52 but fewer than 104 weeks have elapsed since such applicants passed the NBCOT examination, they shall maintain continuing competence by:

- (1) Completing 12 hours of professional education in the clinical application of occupational therapy skills; and
- (2) Doing so within the 12 months just preceding the submission of their application packets.

(c) If 104 or more weeks have elapsed since such applicants passed the NBCOT examination, they shall maintain continuing competence by:

- (1) Completing 24 hours of professional education in the clinical application of occupational therapy skills; and
- (2) Doing so within the 24 months just preceding the submission of their application packets.

Occ 402.09 Non-Completion of Maintenance of Continuing Competence Reported on the Renewal Form.

(a) Renewal applicants who reported on their renewal application form that they anticipated completing continuing professional education between November 1 and December 31 of the renewal year and did not complete the professional education shall:

- (1) Report the cancellation to the Board no later than 15 days from the date of the cancellation or January 15 of the year following the renewal year whichever comes first;
- (2) Give a detailed written explanation of why the renewal applicant could not complete the continuing education as reported on the renewal form; and
- (3) If the opportunity to complete continuing professional education was prevented by cancellation, provide proof of the cancellation.

Occ 402.10 Audit Procedure.

OCCUPATIONAL THERAPY PROFESSION—CONTINUING COMPETENCE REQUIREMENTS

	<p>during each licensing period.</p> <p>(b) A licensee who is audited shall provide proof of completion of the continuing competency activities.</p> <p>(c) A licensee who fails to comply with the continuing competence activity requirements of this Section shall be subject to disciplinary action that may include suspension or revocation of license.</p>
<p>North Dakota</p>	<p>Statute: ND Cent Code § 43-40-15 43-40-15 Renewal of license.</p> <p>1. Any license issued under this chapter is subject to annual renewal and expires unless renewed in the manner prescribed by the rules of the board. The board may provide for the late renewal of a license upon the payment of a late fee in accordance with its rules, but no late renewal of a license may be granted more than three years after its expiration.</p> <p>2. The board may establish additional requirements for license renewal which provide evidence of continuing competency.</p> <p>Regulation: ND Admin Code § 55.5-02-01-04 55.5-02-01-04. Continued competency. Continued competency is the ongoing application and integration of knowledge, critical thinking, interpersonal, and psychomotor skills essential to safely and effectively deliver occupational therapy services within the context of a licensee’s role and environment.</p> <p>1. The board requires a minimum of twenty contact hours within the twenty-four months prior to the completed application for renewal of licensure. One contact hour is equal to one clock-hour.</p> <p>2. Any licensee initially licensed between July first and December thirty-first of the odd-numbered year is required to complete ten contact hours for that licensing period with twenty contact hours for each subsequent licensing period.</p> <p>3. Any licensee initially licensed on or after January first of the even-numbered year has no contact hour requirement until the following licensing period when the licensee is required to complete twenty contact hours for that licensing period and each subsequent licensing period.</p> <p>4. When an applicant for renewal has not been licensed for up to three years, the applicant must submit evidence of a minimum of twenty contact hours of continued competency earned within the twenty-four months prior to the completed application for renewal of license.</p> <p>5. Board-approved continued competency must meet all the following requirements:</p> <ul style="list-style-type: none"> a. Be directly related to or supportive of occupational therapy practice. b. Enhance the licensee’s professional development and competence. c. Be specific to the licensee’s current area of practice or an intended area of practice within the next year. <p>6. Continued competency includes:</p> <ul style="list-style-type: none"> a. Workshops, refresher courses, professional conferences, seminars, or education programs presented by

OCCUPATIONAL THERAPY PROFESSION—CONTINUING COMPETENCE REQUIREMENTS

North
Dakota

organizations such as the American occupational therapy association, the national board for certification in occupational therapy, the North Dakota occupational therapy association, medical associations, or educational and national or state health organizations or approved by the North Dakota board of occupational therapy practice. There is no limit on hours that may be earned under this subdivision.

b. Presentations by licensee:

(1) Professional presentations, for example, inservices, workshops, or institutes. A presentation may be counted only one time. There is no limit on hours that may be earned under this paragraph.

(2) Community or service organization presentations. A presentation may be counted only one time. No more than eight hours may be earned under this paragraph.

c. Formal academic coursework.

(1) One or two credit hour class is equal to five contact hours.

(2) Three or four credit hour class is equal to ten contact hours.

d. Authoring professional publications. There is no limit on hours that may be earned under this subdivision.

Publications include:

(1) Book chapter.

Primary or coauthor of chapter in practice area-related professional textbook. One chapter is equal to ten contact hours as evidenced by a copy of published chapter or letter from the editor.

(2) Article.

Primary or coauthor of practice area-related article in nonpeer-reviewed professional publication. One article is equal to five contact hours as evidenced by a copy of published article.

Primary or coauthor of practice area-related article in peer-reviewed professional publication. One article is equal to ten contact hours.

Primary or coauthor of practice area-related article in lay publication (e.g., community newspaper or newsletter). One article is equal to two contact hours.

(3) Multimedia.

Developing instructional materials - training manuals, multimedia, or software programs - that advance the professional skills of others (not for proprietary use; must not be part of one's primary role) as evidenced by program description (materials may be requested by MBCOT). Five contact hours.

(4) Research activities.

Primary or coprimary investigator in extensive scholarly research activities or outcomes studies. Method of substantiation includes a copy of a research study that indicates certificant as primary or coprimary investigator. Ten contact hours.

Externally funding service or training projects associated with grants or postgraduate studies. Method of

OCCUPATIONAL THERAPY PROFESSION—CONTINUING COMPETENCE REQUIREMENTS

Oklahoma

- (iii) Seminars
- (iv) Conferences
- (v) Programs offered by or approved by the American Occupational Therapy Association or the Oklahoma Occupational Therapy Association or the National Board for Certification in Occupational Therapy
- (vi) Programs at Special Interest Section meetings
- (vii) Occupational Therapy Education Council of Oklahoma workshops (points as assigned on request from Committee)

(B) Assigned Value: 1 point per hour of participation.

(C) Documentation: Verification of attendance and copies of supporting documentation such as program brochure, syllabus, etc. If unable to verify attendance, use Form B **Verification of Conference Attendance**, attach a copy of receipt for conference fee and statement of relevancy to practice of Occupational Therapy if not obvious from the program materials.

(5) Alternative methods of points:

(A) Presentations of occupational therapy programs

- (i) Presentations at workshops, seminars, conferences
- (ii) Presentations as guest lecturer at accredited occupational therapy curriculum
- (iii) Presentations as guest lecturer at other programs on topics related to occupational therapy department inservices
- (iv) Assigned Value: 2 points per hour for first presentation of original material. No additional points for subsequent presentations.
- (v) Documentation: Copies of supporting documentation such as brochures, programs, or syllabus and a statement of objectives of presentation.

(B) Clinical Instruction of Occupational Therapist students or Occupational Therapy Assistant students.

- (i) Assigned Value: 1 point per week of continuous direct supervision.
- (ii) Documentation: Copy of letter of verification of fieldwork from educational program.

(C) Publications (published or accepted for publication)

- (i) Authorship or co-authorship of a book relating to occupational therapy:
 - (I) Maximum of 20 points.
 - (II) Documentation: Copy of Title page.
- (ii) Authorship of a chapter in a book or journal article appearing in a professional journal:
 - (I) Maximum of 10 points.
 - (II) Documentation: Copy of table of contents and first page of chapter or article.
- (iii) Authorship of an article, book review or abstract in a newsletter (such as OOTA Newsletter, OT

OCCUPATIONAL THERAPY PROFESSION—CONTINUING COMPETENCE REQUIREMENTS

Oregon

(1) All current licensees shall obtain a minimum of 30 points of CE from Board approved categories during the two years immediately preceding the date of the license renewal.

(2) Exception: Current licensees who have had their licenses for less than two full years, but more than one year, shall obtain a minimum of 15 points of CE from Board approved categories during the year immediately preceding the date of the license renewal.

339-020-0015 One-time requirement for CE on Pain Management

(1) After January, 2008, a one-time requirement of 7 points of CE on Pain Management must be completed as part of the 30 points of CE defined in OAR 339-020-0020.

(2) All currently licensed Occupational Therapists and Occupational Therapy Assistants who renew their license in May, 2010 must complete the one-hour online Oregon Pain Commission class and six additional points of CE on Pain Management. Any classes provided by the Pain Commission will count toward the 7 points. Licensees may use any CE points on Pain Management taken between 2006 and their renewal date in May, 2010.

(3) All new applicants for Occupational Therapy and Occupational Therapy Assistants must complete the one-time requirement of 7 points of CE on Pain management (including the one online hour offered by the Pain Commission) prior to their next renewal or within two years of license in Oregon, whichever comes later.

339-020-0020: CE Categories and Points

These numbers refer to a two year total of 30 points. Credit for CE shall be calculated on a point basis in the following categories and must relate to occupational therapy services. It is the responsibility of the licensee to demonstrate how specific classes contribute to the development of the occupational therapy skills. "Application to OT Services" (CE Log) must be included for credit. Unless stated otherwise, one point equals one contact hour. Sixteen to 30 required CE points must come from categories 1-11. A limit of 14 of the required CE points may be accrued from categories 12-18.

(1) Attendance at university, college or vocational technical adult education courses at or above practice level: Four points per credit hour. Documentation of successful completion required.

(2) Attendance at seminars, workshops, or institutes: One point per direct hour of content.

(3) Completion of educational telecommunication network or on-line courses: Points as awarded by certificate or per credit, see (1). Certificate of successful completion required.

(4) Attendance at educational sessions relating to occupational therapy sponsored by OTAO, AOTA, AOTA approved providers, and NBCOT or professional academic institutions relating to occupational therapy: One point per hour of attendance. Certificate of attendance required.

(5) Satisfactory completion of American Occupational Therapy Association approved courses/materials or courses/materials offered by AOTA approved providers: Points per certificate on completion. Documentation of

OCCUPATIONAL THERAPY PROFESSION—CONTINUING COMPETENCE REQUIREMENTS

<p>RI</p>	<p>licensee for no less than four (4) years and are subject to random audit by the Department.</p> <p>6.5.2 Occupational therapists or occupational therapy assistants initially licensed during the two (2) year period preceding license renewal shall have their credits for continuing education prorated according to the time actually licensed during the two (2) year period.</p> <p>6.5.3 The Board, at its discretion, may grant one of the following to an occupational therapist or occupational therapy assistant for reasons of hardship or other extenuating circumstances:</p> <ul style="list-style-type: none"> • an extension of time to complete the continuing education requirements; • a variance from the continuing education requirements; • a waiver from the continuing education requirements.
<p>South Carolina</p>	<p>Statute: SC Code §40-36-260</p> <p>40-36-260</p> <p>C) As a condition of license renewal, a licensee must complete satisfactorily sixteen hours of continuing education per biennium as defined in regulation and must submit proof of completion on a form approved by the board and must be certified and in good standing with NBCOT or other board-approved certification program.</p> <p>D) Notwithstanding subsection (H), if a person’s license lapses because the person did not satisfy the continuing education and certification requirements of subsection (c), the person must comply with subsection (c) before the board may renew the license.</p> <p>Regulation: SC Code of Regs Chapter 94</p> <p>ARTICLE 4. CONTINUING EDUCATION</p> <p>94-08. Continuing Education.</p> <p>(1) A licensee must maintain continuing education requirements in compliance with NBCOT or other board-approved standards.</p> <p>(2) The Board reserves the right to audit continuing education requirements, or delegate audit of continuing education requirements.</p>
<p>South Dakota</p>	<p>Statute: SD Codified L § 36-31-11</p> <p>Expiration of license - Renewal - Fee - Restoration of forfeited license - Time limit - Continuing competency requirements. Any license issued by the board, pursuant to the provisions of this chapter, shall expire on the first day of January of the</p>



February 28, 2017

Heather Martin, Executive Officer
California Board of Occupational Therapy
2005 Evergreen Street, Suite 2250
Sacramento, CA 95815

RE: Professional Development Activity - NBCOT Navigator Tool

Dear Ms. Martin,

On behalf of the Occupational Therapy Association of California (OTAC), I am writing to express our concerns with the potential adoption of the NBCOT Navigator tool by the Board of Occupational Therapy.

OTAC is a not-for-profit professional society representing the interests of all 18,694 licensed occupational therapy clinicians throughout California. Occupational therapists (OTs) and occupational therapy assistants (OTAs) work with people of all ages experiencing physical and behavioral health conditions or disabilities to develop, improve, or restore functional daily living skills, such as caring for oneself, managing a home, achieving independence in the community, driving, or returning to work.

At the December 9th, 2016 CBOT meeting, the Board heard a presentation from the National Board of Certification in Occupational Therapy (NBCOT) regarding the NBCOT Navigator online continuing competency assessment tools. The Board discussed potentially adopting the Navigator Suite as an acceptable professional development activity. While no formal rulemaking on this issue has been proposed, we would like to discuss our concerns with such a proposal and request to be included in future discussions regarding the NBCOT Navigator tool and other professional development activities.

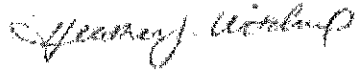
The NBCOT Navigator tool measures professional development in "competency assessment units," or CAUs. If such a tool were to be adopted as an acceptable professional development activity, it is unclear as to how "CAUs" would translate to professional development units, including how many CAUs would be required. We would like to see data regarding the claiming of units for self-assessment versus receiving units for progression of skills, e.g. are there outcomes data on CAUs as opposed to units via human interaction? OTAC urges the Board to consider the known validity of self-assessment continuing competency training relative to how many of the required 24 biannual units would be granted as such.

Further, OTAC would like to ensure market competition if CAUs are, indeed, accepted as professional development activity toward licensure renewal in California, so that other continuing competency providers have the opportunity to provide content. Multiple providers offering a choice of products to OT licensees will prevent the negative, albeit unintentional, consequences of a product monopoly. OTAC commends the Board for its work to protect

consumers and uphold the high standards of the OT profession via the existing renewal requirements. Allowing a single, private entity to modify or supersede these standards could jeopardize the integrity of the licensing process.

Thank you for your attention to this matter. If you have any questions, please contact Ivan Altamura with Capitol Advocacy at (916) 444-0400 or ialtamura@capitoladvocacy.com.

Sincerely,



Heather J. Kitching, OTD, OTR/L
OTAC President

AGENDA ITEM 7

Discussion and possible action regarding availability of fieldwork sites, potential workforce shortage, and impact to applicants and consumers.

The following are attached for review:

- Letter from Genesis Rehab regarding charging for student fieldwork placement
- New language from Education Code regarding out-of-state private education institutions being registered with the Bureau for Private Postsecondary Education



To our University Partners:

The current healthcare environment has brought many changes and challenges to our industry as a whole. Despite these challenges, Genesis Rehab Services remains committed to supporting the student program and guiding students to understand the new environment that this has created for the older adult population. To balance the importance of meeting the demands of affiliation placements with our need to adapt to new regulatory and reimbursement rules, we plan to institute a nominal stipend per student placement on **September 1, 2017**.

You may or may not know that the new and innovative models of reimbursement are affecting our practice. We have had to deal with many, new regulatory changes in a short amount of time. GRS has chosen to embrace the changes and educate our therapists to understand and practice responsibly. This new practice arena is based on evidence, specific to our unique skills as rehabilitation therapists, and serving as excellent stewards of limited therapy dollars. Practicing responsibly is in line with the "Triple Aim," a framework adopted by Center for Medicare and Medicaid Services (CMS) to optimize health system performance by:

- Improving the patient experience of care
- Improving the health of populations
- Reducing the per capita cost of healthcare

These changes caused us to review our student program to determine if the program was meeting GRS's mission, vision, and goals. We were able to determine the "cost of the program" and analyzed our return on investment. We reaffirmed our convictions that having a student program provides valuable professional development opportunities for our staff and that students in our gyms elevate practice and enhance a culture that facilitates the integration of the best available evidence into everyday practice.

Despite the many positive aspects of our program, we found an imbalance between the cost of the program and our return on investment. We do not always have the need to recruit and hire new graduates in the geographies they are looking to be employed. We have also witnessed the proliferation of new therapy schools in geographies that already have established programs. In addition, we have seen our existing partners continue to grow their class size. In some geographies, we are inundated with multiple student requests for the same discipline during the same time period. While we remain committed to providing a student program for all the reasons mentioned above, we also recognize that with the current reimbursement changes and growing number of academic partners, we need to explore novel solutions in order to be able to continue to provide an effective student program.

Please see the attached Addendum to our current contract with your school. This would become effective **September 1, 2017**. We do understand that you need to take the time to discuss this change, adjust budgets and obtain approvals from your operating boards. Please get back to me at your earliest time frame with your decision to move or not move in this direction.

We look forward to continued collaboration with your school, faculty and students as we all deal with the ever changing healthcare world that we live in. If you would like to talk further about this, do not hesitate to call myself or the Clinical Specialist of Education and Staff Development for your state.

Sincerely,

Diane P. Durham, MS, OTR

Diane P. Durham, MS, OTR
VP, Education and Staff Development
Diane.durham@genesishcc.com (610) 925-4439

Clinical Specialist of Education and Staff Development:

Michelle DuBre

Michelle DuBre, SLP

Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, Ohio, Oklahoma, Oregon, Texas, Utah, Washington, Wisconsin

Michelle.Dubre1@GenesisHCC.com

Jessica Fulmino, PT, DPT, CCLS, MS

Jessica Fulmino, DPT

Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Vermont

Jessica.Fulmino@genesishcc.com

Michael S McGregor

Michael McGregor, DPT

Alabama, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia

Michael.McGregor@genesishcc.com

AMENDMENT

The Agreement for Clinical Affiliation between Genesis ElderCare Rehabilitation Services, LLC DBA Genesis Rehab Services (hereinafter "Genesis Rehab Services") and _____ (hereinafter "School") dated _____ (the "Agreement") is hereby amended effective September 1, 2017 as follows:

Effective as of September 1, 2017, Genesis Rehab Services shall invoice School and School shall pay Genesis Rehab Services a stipend for each student participating in a clinical training program with Genesis Rehab Services as follows:

Student Stipend

	<u>Full Time</u> (>160 hrs.)	<u>Part Time</u> (<160 hours)
Physical Therapy, Occupational Therapy, Speech Therapy	\$1,000/student	\$500/student
Physical Therapy Assistant, Occupational Therapy Assistant	\$500/student	\$250/student

Genesis Rehab Services will invoice School within thirty (30) days of each student's start date, and School will remit payment to Genesis Rehab Services within thirty (30) days of the date of the invoice.

Except as amended herein, all other terms and conditions of the Agreement between Genesis Rehab Services and School shall remain unchanged.

For Genesis Rehab Services:

For School:

Printed Name: Diane Durham, MS, OTR
Title: VP Education & Staff Development
Date: _____

Printed Name: _____
Title: _____
Date: _____



IMPORTANT: PROCESS

We hope that you will remain a partner with Genesis Rehab Services after September 1, 2017. If so, here are the following steps that you will need to take:

Step 1- Sign and return the attached Addendum that will accompany your school contract. GRS will sign and return the fully executed original back to you.

Step 2- Identify who will be the contact person to receive the stipend invoice after September 1, 2017.

Institution Name: _____

Contact Person: _____

Address: _____

Email: _____

Step 3- If your current contract has been signed and fully executed longer than 5 years ago, please send an updated version with this Addendum. GRS will sign and fully execute and return to you in a timely manner.

Thank you for your attention to this matter.

RETURN THIS WITH THE AMENDMENT

Why is Genesis Rehab Services charging university partners a stipend?

The current healthcare environment has brought many changes and challenges to our industry as a whole. New and innovative models of reimbursement are affecting our practice. We have had to deal with many new regulatory changes in a short amount of time. GRS has chosen to embrace the changes and educate our therapists to understand and practice responsibly. We closely had to evaluate how we were using our clinical resources and if those resources supported GRS's mission, vision, and goals. This included the student program.

When does the stipend start?

The stipend starts for placements starting September 1st, 2017. So if there is a placement that is scheduled from 8/15/17-10/1/17, this placement would not be affected. If a placement is scheduled from 9/1/17-11/15/17, the school would be required to pay the stipend amount.

Does the stipend guarantee our university a placement?

GRS is requiring all university partners to pay a stipend. We will follow our current system for placing students which follows a set criteria that we consider for each spot. We are unable to guarantee placements. We work very hard to make a commitment to each school and do everything we can not to cancel a placement. In the event that GRS does need to cancel a placement, we would not require a university to pay for a service that was not delivered.

Will GRS place students outside their 6 month timeframe?

Currently we are not considering placing outside our 6 month timeframe. It is difficult for us to predict the stability of a site outside that 6 month window. GRS works very hard to ensure that we provide an optimal clinical experience. Once we commit to a placement, we do everything in our power not to cancel. We think this speaks to our integrity as an organization and our commitment to clinical education.

What is the stipend amount and how did GRS determine those numbers?

GRS reviewed several curricular designs for occupational therapy, occupational therapy assistant, physical therapy, physical therapist assistant, speech-language pathology and respiratory contacts. GRS determined the average length of part-time and full-time experiences.

GRS will charge \$1000 for a full-time hands-on therapist placement >160 hours in the clinic; \$500 for a part-time hands-on placement <160 hours in the clinic.

Therapist assistant placement >160 hours in the clinic will be \$500; therapist assistant placements <160 hours \$250.

Respiratory therapy placement >6 visits will be \$200; respiratory therapy placements <6 visits will be \$100.

In addition to reviewing curricula and cost, GRS has both private and public institutions that pay for student placements. GRS reviewed what universities were already paying and factored that into their decision.

Will this money cover the cost of the student program?

No, this money only covers a portion of the cost that GRS invests in its student program. Costs related to the program include administrative support to run the program, including the Clinical Specialist of Education and administrative staff, student on-boarding costs, lost efficiency of staff completing education to prepare for having a student, and lost efficiency of staff while the student is on-site for placement.

What happens if my student fails their clinical?

GRS invests a lot of time working with individuals that are having difficulty in the clinic. Universities would still be required to pay a stipend even if a clinical was terminated prematurely by GRS and/or the school for student performance issues.

When does the university need to pay the stipend?

Genesis Rehab Services will invoice School within thirty (30) days of each student's start date, and School will remit payment to Genesis Rehab Services within thirty (30) days of the date of the invoice.

Why should my university invest in partnering with GRS?

Genesis Rehab Services has a wealth of resources that have been invested into the student program. Please see the document entitled ***Resources and Expectations for the GRS Student Program***. In addition to these resources, GRS is a leader in trialing alternative clinical education models, including the collaborative and intraprofessional models of education. Genesis strives to provide students with a quality experience.

RESOURCES AND EXPECTATIONS FOR THE GRS STUDENT PROGRAM

Genesis Rehab Services is dedicated to providing evidenced based, patient centered care for the active aging population in a variety of post-acute settings. Clinical education experiences are designed to foster clinical competency, reasoning skills and professional development of students with the ultimate goal of promoting a successful transition from the role of the student to that of an entry level practitioner. Genesis Rehab Services believes that when students are given the opportunity to participate in a comprehensive, challenging and dynamic clinical education program, they will develop the passion, enthusiasm and understanding to professionally serve our most valued customer. GRS recognizes the importance of clinical education for students, and provides an environment and opportunity to introduce and educate the student to the special needs of the geriatric patient.

GRS Expectations for Clinical Instructors

- Encourage APTA Credentialed Instructor (PT/PTA staff)
- Encourage AOTA Fieldwork Certificate Course (OT/OTA Staff)
- Participate In GRS Clinical Instructor Orientation
- Participate in GRS Clinical Instructor Training & Education
- Review and use the GRS Clinical Instructor Manual
- Review and use Clinical Supervision Scenario Videos
- Remain in "good standing" with the company

GRS Resources for Clinical Instructors

- GRS Clinical Instructor Orientation. Topics include:
 - Program structure and resources
 - Recommended affiliation schedule
 - Roles and responsibilities of the clinical instructor
 - Billing and supervision guidelines
 - Student orientation checklist
- GRS Clinical Instructor Training & Education. Topics include:
 - Principles of learning
 - Providing student feedback
- Clinical Instructor Manual. Topics include:
 - Criteria to be a clinical instructor
 - Structuring the supervisory process
 - How to give feedback
 - Generational differences
 - Supervisory meetings
 - Student learning objectives
 - Student learning assignments and projects
 - Supervising the exceptional student
 - Discipline specific sections for PT, OT, ST, RT
- Clinical Supervision Scenario Videos. Topics include:
 - Structuring the supervisory meeting
 - Providing constructive student feedback
 - Facilitating professional confidence in a student
 - Managing a challenging student

GRS Expectations for Students

- Participate in a student orientation call, offered every other week
- Be an active learner for an optimal educational experience
- Complete the *Learning Style Inventory*
- Share current evidence based academic knowledge
- Provide feedback to GRS and clinical instructor on educational experience

GRS Resources for Students

- GRS Student Workbook. Topics include:
 - GRS mission, vision, core values
 - Roles and responsibilities
 - GRS policies
 - Learning styles questionnaire
 - Listening awareness inventory
 - Recommended affiliation schedule
 - Student learning objectives
 - Student learning assignments and projects
 - Documentation workflow
 - Outcomes training specific to discipline
- GRS Student education:
 - Documentation education
 - Electronic documentation system training (ROX)
 - Reimbursement training (access to 24 pre-recorded modules related to insurance, billing, and coding)
 - Discipline-specific training on assessments evidence-based practice, and practice guidelines
- Access to 18 GRS Clinical Resource Guides
- GRS Discipline-Specific Value-Based Clinical Tools

Genesis Rehab Services employs **Clinical Specialists of Education and Staff Development** to manage and promote the student program in their respective geography. In addition to overseeing the placement and on-boarding of students, an important part of their role is to ensure that clinical instructors and students have the resources they need. University Partners, students, and clinical instructors have direct access to these individuals for any questions and concerns. We also provide students and clinical instructors with a network of clinical experts in the areas of dementia, lymphedema, dysphagia, skin & wound care, driving rehab/CarFit, fall risk management, cognitive communication, seating & positioning, wellness, and standardized assessments.

Out-of-State Institution Registration

The California Education Code provides that all private postsecondary educational institutions with a physical presence in the state of California must apply for approval to operate with the Bureau for Private Postsecondary Education (Bureau).

Effective July 1, 2017, certain out-of-state private postsecondary educational institutions must register with the Bureau, pay a \$1,500 registration fee and submit required documentation. The Bureau is currently promulgating regulations to implement these changes. Updates will be posted to the Bureau's homepage regarding the status of the regulations.

SECTION 94801.5, CALIFORNIA EDUCATION CODE

Effective July 1, 2017, an out-of-state private postsecondary educational institution shall register with the bureau, pay a fee pursuant to Section 94930.5, and comply with all of the following:

- (1) The institution shall provide the bureau with all of the following information:
 - (A) Evidence of accreditation.
 - (B) Evidence that the institution is approved to operate in the state where the institution maintains its main administrative location.
 - (C) The agent for service of process consistent with Section 94943.5.
 - (D) A copy of the institution's catalog and sample enrollment agreement.
- (2) The institution shall comply with the requirements of the Student Tuition Recovery Fund, established in Article 14 (commencing with Section 94923), and regulations adopted by the bureau related to the fund, for its students residing in California.
- (3) The institution shall provide disclosures pursuant to the requirements for the Student Tuition Recovery Fund, established in Article 14 (commencing with Section 94923), and regulations adopted by the bureau related to the fund, for its students residing in California.
 - (b) This section does not apply to nonpublic higher education institutions that grant undergraduate degrees, graduate degrees, or both, and that are formed as nonprofit corporations and are accredited by an agency recognized by the United States Department of Education.
 - (c) An institution described in subdivision (a) that fails to comply with this section is not authorized to operate in this state.
 - (d) A registration with the bureau pursuant to this section shall be valid for two years.
 - (e) The bureau shall develop, through emergency regulations, a registration form. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code. These emergency regulations shall become law through the regular rulemaking process by January 1, 2018.

SECTION 94850.5, CALIFORNIA EDUCATION CODE

"Out-of-state private postsecondary educational institution" means a private entity without a physical presence in this state that offers distance education to California students for an institutional charge, regardless of whether the institution has affiliated institutions or institutional locations in California.

SECTION 94886, CALIFORNIA EDUCATION CODE

Except as exempted in Article 4 (commencing with Section 94874) or in compliance with the transition provisions in Article 2 (commencing with Section 94802), a person shall not open, conduct, or do business as a private postsecondary educational institution in this state without obtaining an approval to operate under this chapter.

SECTION 94930.5, CALIFORNIA EDUCATION CODE

Subject to Section 94930, an institution shall remit to the bureau for deposit in the Private Postsecondary Education Administration Fund the following fees, in accordance with the following schedule:

- (a) The following fees shall be remitted by an institution submitting an application for an approval to operate, if applicable:
- (1) Application fee for an approval to operate: five thousand dollars (\$5,000).
 - (2) Application fee for the approval to operate a new branch of the institution: three thousand dollars (\$3,000).
 - (3) Application fee for an approval to operate by means of accreditation: seven hundred fifty dollars (\$750).
- (b) The following fees shall be remitted by an institution seeking a renewal of its approval to operate, if applicable:
- (1) Renewal fee for the main campus of the institution: three thousand five hundred dollars (\$3,500).
 - (2) Renewal fee for a branch of the institution: three thousand dollars (\$3,000).
 - (3) Renewal fee for an institution that is approved to operate by means of accreditation: five hundred dollars (\$500).
- (c) The following fees shall apply to an institution seeking authorization of a substantive change to its approval to operate, if applicable:
- (1) Processing fee for authorization of a substantive change to an approval to operate: five hundred dollars (\$500).
 - (2) Processing fee in connection with a substantive change to an approval to operate by means of accreditation: two hundred fifty dollars (\$250).
- (d) (1) In addition to any fees paid to the bureau pursuant to subdivisions (a) to (c), inclusive, each institution that is approved to operate pursuant to this chapter shall remit both of the following:
- (A) An annual fee for each campus designated by the institution as a main campus location in California, in an amount equal to 0.45 percent of the campus' total gross revenue derived from students in California, but not to be less than two thousand five hundred dollars (\$2,500) and not to exceed sixty thousand dollars (\$60,000).
 - (B) An annual campus fee for each branch of the institution in an amount equal to 0.45 percent of the branch's total gross revenue derived from students in California, but not to be less than two thousand five hundred dollars (\$2,500) and not to exceed sixty thousand dollars (\$60,000).
- (2) The amount of the annual fees pursuant to paragraph (1) shall be proportional to the bureau's cost of regulating institutions under this chapter, but shall not exceed seven hundred fifty thousand dollars (\$750,000) for any institution.
- (e) The bureau may assess both of the following fees, if applicable:
- (1) An out-of-state institution registration fee in an amount of one thousand five hundred dollars (\$1,500).
 - (2) A request for inactive status fee in an amount of five hundred dollars (\$500).
- (f) It is the intent of the Legislature that the fees established pursuant to this section be evaluated during the 2017–18 state budget process and, if necessary, adjusted by subsequent legislation based upon information provided to the Legislature by the department and the bureau.
- (g) Notwithstanding subdivision (d), effective July 1, 2018, the annual fee for each campus described in subparagraphs (A) and (B) of paragraph (1) of subdivision (d) shall be in an amount equal to 0.55 percent of that campus' total gross revenue derived from students in California, but not to be less than two thousand five hundred dollars (\$2,500) and not to exceed sixty thousand dollars (\$60,000) for each campus.