

**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
Title 16, Division 39, California Code of Regulations**

Final Language

a. Section 4102, Article 1, is amended to read as follows:

§ 4102. Filing of Addresses.

(a) Each person licensed, ~~certified~~ or issued a limited permit by the board, shall report to the board every change of residence address within 30 days after the change, giving both the old and new addresses. In addition to the residence address, the person may provide the board with an alternate address of record. If an alternate address is the person's address of record, he or she may request, in writing, that the residence address not be disclosed to the public.

(b) Each person licensed, ~~certified~~ or issued a limited permit by the board shall report to the board every change of name within 30 days after the change, giving both the old and new names.

(c) This section refers to every person who holds an active, inactive, unexpired, suspended license ~~or certificate~~, or a limited permit.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 136, 2570 (original), 2570.3, 2570.5, 2570.8, 2570.9, 2570.10 and 2570.11, Business and Professions Code.

b. Section 4114, Article 2, is amended to read as follows:

§ 4114. Abandonment of Application.

a) An application for a license ~~or certificate~~ shall be deemed abandoned and the application fee forfeited when:

(1) The applicant fails to complete the application within two years after it is originally received by the board.

(2) The applicant fails to submit the initial license ~~or certification~~ fee within sixty (60) days after the date of notification of eligibility by the board.

(b) An application for a limited permit shall be deemed abandoned and the application fee forfeited if the applicant fails to complete the application or submit the required fee within sixty (60) days after it is originally received by the board.

(c) An application submitted subsequent to the abandonment of a previous application shall be treated as a new application.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 2570.5, 2570.6, 2570.7, 2570.8, 2570.9, 2570.14 and 2570.16, Business and Professions Code.

c. Section 4122, Article 3, is amended to read as follows:

4122. Inactive Status.

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

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

Note: Authority cited: Sections 462, 700, 701 and 2570.20, Business and Professions Code.
Reference: Sections 462, 700, 701 and 2570.11, Business and Professions Code.

d. Section 4141, Article 5, is amended to read as follows:

§ 4141. Assessment of Administrative Fines.

- (a) Where citations include an assessment of an administrative fine, the fine shall be not less than \$50 or exceed \$5,000 for each violation. Each violation shall be classified according to the nature of the violation and shall indicate the classification on the face thereof as follows:
 - (1) Class "A" violations shall not be less than \$1,001 nor more than \$5,000. Class "A" violations are violations that the executive officer, or his or her designee, has determined involve a person who, while engaged in the practice of occupational therapy, has violated a statute or regulation relating to the Occupational Therapy Practice Act. Class "A" violations are more serious in nature and may include, but are not limited to, violations which resulted in or had significant potential for patient harm and where there is no evidence that revocation or other disciplinary action is required to ensure public safety. Such violations include, but are not limited to, failing to provide direct in-sight supervision of an aide when the aide performed a client related task that resulted in harm to the patient, or failing to provide adequate supervision to an occupational therapy assistant that resulted in harm to the patient, or fraudulent medical billing, or practicing without a current and active license for more than one year, or functioning autonomously as an occupational therapy assistant. A

Class "A" violation may be issued to a person who has committed a class "B" violation who has had two or more prior, separate class "B" violations.

(2) Class "B" violations shall not be less than \$501 nor more than \$2,500. Class "B" violations are violations that the executive officer, or his or her designee, has determined involve a person who, while engaged in the practice of occupational therapy, has violated a statute or regulation relating to the Occupational Therapy Practice Act. Class "B" violations are less serious in nature and may include, but are not limited to, violations which could have resulted in patient harm. Typically some degree of mitigation will exist. Such violations include, but are not limited to, failing to provide direct in-sight supervision of an aide when the aide performed a client related task that did not result in harm to a patient, or failure to provide adequate supervision to an occupational therapy assistant, limited permit holder, student, or occupational therapy aid, resulting in no patient harm, or providing advanced practice services without board approval, or practicing when the license has been expired or inactive for a period of more than three months but less than one year, or supervising more occupational therapy assistants than allowed by law. A class "B" violation may be issued to a person who has committed a class "C" violation who has two or more prior, separate class "C" violations.

(3) Class "C" violations shall not be less than \$50 nor more than \$1,000. Class "C" violations are violations that the executive officer, or his or her designee, has determined involve a person who has violated a statute or regulation relating to the practice of occupational therapy. A class "C" violation is a minor or technical violation which is neither directly or potentially detrimental to patients nor potentially impacts their care. Such violations may include, but are not limited to, practicing when the license has been expired or inactive for a period of three months or less, failing to disclose a conviction or convictions in the application process, or failing to provide a patient or client or the guardian of a patient or client access to their medical records pursuant to Health and Safety Code Section 123110. A class "C" violation may also be issued to a licensee or certificate holder who fails to respond to a written request by the board for additional information relating to a renewal application.

(4) Class "D" violations shall not be less than \$50 nor more than \$250. Class "D" violations occur when the executive officer, or his or her designee, has determined that an applicant, or licensee, or certificate holder has failed to provide a change of address within 30 days as required by Section 4102. A class "D" violation is a minor technical violation which is neither directly or potentially detrimental to patients nor potentially impacts their care.

(b) In determining the amount of an administrative fine, the executive officer, or his or her designee, shall consider the following factors:

- (1) Gravity of the violation,
- (2) History of previous violations involving the same or similar conduct,
- (3) Length of time that has passed since the date of the violation,
- (4) Consequences of the violation, including potential for patient harm,
- (5) The good or bad faith exhibited by the cited individual,
- (6) Evidence that the violation was willful,
- (7) The extent to which the individual cooperated with the board's investigation,
- (8) The extent to which the individual has remediated any knowledge and/or skills deficiencies,
- (9) Any other mitigating or aggravating factors.

(c) In his or her discretion, the executive officer, or his or her designee, may issue an order of abatement without levying a fine for the first violation of any provision set forth in subsection (a).

(d) The executive officer, or his or her designee, may assess a fine which shall not exceed five thousand dollars (\$5,000) for each violation if the violation involves fraudulent billing.

Note: Authority cited: Sections 125.9, 148 and 2570.20, Business and Professions Code.
Reference: Sections 125.9 and 148, Business and Professions Code.

e. Section 4163, Article 7, is amended to read as follows:

§ 4163. Exemption from Continued Competency Requirements.

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

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

(b) Evidence that the practitioner was absent from California because of military service for a period of one year or longer during the renewal period, preventing completion of the continuing competency requirements; or

(c) Evidence that the practitioner should be exempt from the continuing competency requirements for reasons of health or other good cause which include:

(1) Total physical and/or mental disability for one (1) year or more during the renewal period and the inability to work during this period has been verified by a licensed physician or surgeon or licensed clinical psychologist; or

(2) Total physical and/or mental disability for one (1) year or longer of an immediate family member for whom the practitioner had total responsibility, as verified by a licensed physician or surgeon or licensed clinical psychologist.

Note: Authority cited: Sections 2570.10 and 2570.20, Business and Professions Code.
Reference: Sections 2570.10 and 2570.11, Business and Professions Code.

f. Section 4181, Article 9, is amended to read as follows:

§ 4181. Supervision Parameters.

(a) Appropriate supervision of an occupational therapy assistant includes, at a minimum:

(1) The weekly review of the occupational therapy plan and implementation and periodic onsite review by the supervising occupational therapist. The weekly review shall encompass all aspects of occupational therapy services and be completed by telecommunication or onsite.

(2) Documentation of the supervision, which shall include either documentation of direct client care by the supervising occupational therapist, documentation of review of the client's medical and/or treatment record and the occupational therapy services provided by the

occupational therapy assistant, or co-signature of the occupational therapy assistant's documentation.

(3) The supervising occupational therapist shall be readily available in person or by telecommunication to the occupational therapy assistant at all times while the occupational therapy assistant is providing occupational therapy services.

(4) The supervising occupational therapist shall provide periodic on-site supervision and observation of client care rendered by the occupational therapy assistant.

(b) The supervising occupational therapist shall at all times be responsible for all occupational therapy services provided by an occupational therapy assistant, a limited permit holder, a student or an aide. The supervising occupational therapist has continuing responsibility to follow the progress of each client, provide direct care to the client, and assure that the occupational therapy assistant, limited permit holder, student or aide do not function autonomously.

(c) The level of supervision for all personnel is determined by the supervising occupational therapist whose responsibility it is to ensure that the amount, degree, and pattern of supervision are consistent with the knowledge, skill and ability of the person being supervised.

(d) Occupational therapy assistants may supervise:

(1) Level I occupational therapy students;

(2) Level I and Level II occupational therapy assistant students; and

(3) Aides providing non-client related tasks.

(e) The supervising occupational therapist shall determine that the occupational therapy practitioner possesses a current license, ~~certificate~~ or permit to practice occupational therapy prior to allowing the person to provide occupational therapy services.

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

NONSUBSTANTIVE

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

ENDORSED FILED
IN THE OFFICE OF

2013 JUN 25 PM 2:17

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2013-0515-03N	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Board of Occupational Therapy			AGENCY FILE NUMBER (if any)

2013 MAY-15 PM 4:26
OFFICE OF ADMINISTRATIVE LAW

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Eliminate OTA Reference "Certified"	TITLE(S) 16	FIRST SECTION AFFECTED 4102	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON Heather Martin	TELEPHONE NUMBER (916) 322-3394	FAX NUMBER (Optional) (916) 263-2701
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Eliminate OTA Reference "Certified"	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)		
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT AMEND 4102, 4114, 4122, 4141, 4163, and 4181 REPEAL		
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDITIONAL RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
Effective DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) <input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input checked="" type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Heather Martin	TELEPHONE NUMBER (916) 322-3394	FAX NUMBER (Optional) (916) 263-2701	E-MAIL ADDRESS (Optional) heather.martin@dca.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>H. Martin</i>	DATE 15 May 2013
TYPED NAME AND TITLE OF SIGNATORY Heather Martin, Executive Officer, California Board of Occupational Therapy	

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ENDORSED APPROVED

JUN 25 2013

Office of Administrative Law