

# CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

## FINAL STATEMENT OF REASONS

**Hearing Date:** No public hearing held (No request from the public was received)

**Subject Matter of Proposed Regulations:** Standards Related to Denial, Discipline and Reinstatement of a License

**Sections Affected:** Title 16, Division 39, California Code of Regulations, Sections 4101, 4146.5, 4147, and 4147.5

### **Updated Information:**

The Initial Statement of Reasons is included in the file. There has not been any change to the initially proposed text or the underlying reasons the California Board of Occupational Therapy (Board) seeks this regulatory amendment.

The Board would like to correct and clarify three items in the Initial Statement of Reasons as described below:

- (1) Add the word “that” to second page, the paragraph related to Default Decisions, the third sentence, which should read “Section 11520(c) provides that a respondent may file a motion to vacate a decision to avoid implementation of the license revocation to schedule a hearing or to reschedule a hearing on a showing of “good cause”.
- (2) On page 8, the first line, should read “Amend term #11-Cost Recovery Requirements”.
- (3) On page 10, the second paragraph, last sentence, that stated “This condition is necessary in the event that a licensee successfully rebuts the presumption that they are a substance abusing licensee in CCR Section 4147.7(b) but who opinion of an ALJ or the Board drug and/or alcohol testing is still necessary to preserve public protection, although at a lesser level, should read as follows: “This condition is necessary in the event that a licensee successfully rebuts the presumption that they are a substance abusing licensee in CCR Section 4147.7(b) but who in the opinion of an ALJ or the Board find that drug and/or alcohol testing is still necessary to preserve public protection, although to a lesser level”.

The Board did not receive any comment relative to this proposed regulatory action.

The Board is affecting a minor technical edit to the Order of Adoption regarding Section 4146.5. In Section 4146.5 several words in the first sentence, including “the Administrative Procedure Act (section 11500 et seq. of the Government Code)” were all new text but were not properly underlined when noticed; the words are now properly underlined in the in the Order of Adoption. Since the only edit to the proposed language was ‘underlining’ the new text, this is a minor technical edit.

The Board has also affected minor technical edits to the Disciplinary Guides pertaining to the reference of probation reporting forms in term #6, as follows:

- (1) On page 19, Notification to Employer, the initially proposed language referenced the form as “Authorization to Release Information, Dev 11/2011”. The Board is making a technical modification to add a form number and changing the revision date as follows “Authorization to Release Information, Form CBOT-ARI, Rev 08/2013”.
- (2) In the Board initially proposed language there was an inadvertent error referencing the Work Performance Evaluation form as having a revision date of 12/2010, when in fact it should have been 02/2011. The technical edit that the Board is affecting is to update the revision date to 07/2013 due

to a change in the Board's letterhead correcting the Board's new address, Suite 2250, and involving the name change of Business, Consumer Services, and Housing Agency.

**Local Mandate:** None

**Business Impact/Finding of Necessity:** The Board has determined this proposed action will not have an adverse impact on the creation of jobs or new business in California. This proposed action impacts individuals that are licensed to provide occupational therapy services to California consumers or who seek licensure to provide occupational therapy services. Any hardship that is imposed on an affected individual is outweighed by the Board's mandate to protect the health, safety, and welfare of California consumers.

Business and Professions Code section 2570.25 establishes that protection of the public shall be the highest priority of the Board. This proposed action provides more efficient handling of motions to vacate default decisions. This proposed action will make default decisions and stipulated settlements become effective 10-days from the date of service to dispense disciplinary actions in a more expeditious manner. This proposed action will update, clarify, and improve the Board's Disciplinary Guidelines and incorporates the most recent version of the Uniform Standards for Substance-Abusing Licensees to coordinate and enforce standards of the professions and to protect public safety.

**Consideration of Alternatives:** No reasonable alternative which was considered or that has otherwise been identified and *brought* to the attention of the Board would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulation or would be more cost effective to the affected private persons than the adopted regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

**Summary of Public Comments Received During 45-day Comment Period:**

The Board did not receive any comments relative to the proposed action.