

**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
PROPOSED MODIFIED REGULATORY LANGUAGE
Title 16, Division 39, California Code of Regulations**

ORDER OF ADOPTION

Proposed amendments are shown by ~~strikeout~~ for deleted text and underlined for new text.

a. Section 4101, Article 1, is amended to read as follows:

§ 4101. Delegation of Certain Functions.

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

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 480, 2570.1, 2570.6, 2570.17, 2570.19, 2570.20, and 2570.23, Business and Professions Code and Sections 11415.60 and 11500 et seq., Government Code.

b. Section 4146.5 is added to Article 5.5, to read as follows:

§ 4146.5. Effective Dates of Decisions

Unless otherwise specified in an Order of the Board, the effective date of a decision made by the Board pursuant to the Administrative Procedure Act (section 11500 et seq. of the Government Code) shall be established as follows:

(a) A Default Decision and Order shall become effective 10-days from the date of service of the decision on the parties.

(b) A Stipulated Settlement and Order shall become effective 10-days from the date of service of the decision on the parties.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 2570.27, 2570.28, 2570.29, 2570.30, 2570.31 and 2570.32, Business and Professions Code; and Sections 11425.50(e), 11519, and 11520, Government Code.

c. Section 4147, Article 5.5 is amended to read as follows:

§ 4147. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines.

(a) In reaching a decision on a disciplinary action under the administrative adjudication provisions of the Administrative Procedure Act (Government Code 11400 et seq.), the Board shall ~~consider and apply the~~ comply with the "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines" (July 2014 ~~October 2013~~) which are hereby incorporated by reference. The Disciplinary Guidelines shall apply to all disciplinary matters. Deviation from these disciplinary guidelines ~~and orders~~, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such deviation, e.g., the presence of aggravating or mitigating factors; age of the case; or evidentiary problems issues. ~~Neither the board nor an administrative law judge may impose any conditions or terms of probation that are less restrictive than the Uniform Standards Related to Substance Abuse.~~

(b) All probationers shall submit and cause each health care employer to submit quarterly reports to the Board. The reports, "Quarterly Written Report (4/2011)" and "Work Performance Evaluation (02/2011)" shall be obtained from the Board and are hereby incorporated by reference.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 125.6, 425.9, 315, ~~315.2, 315.4~~, 475, 480, 481, 482, 490, 496, 2570.27, 2570.28, 2570.29, 2570.30, 2570.31 and 2570.32, Business and Professions Code; and Section 11425.50(e), Government Code.

d. Section 4147.5 is added to Article 5.5, to read as follows:

§ 4147.5. Uniform Standards Related to Substance Abuse.

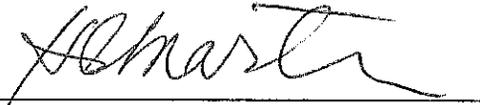
(a) The Board shall also apply, as required, the Department of Consumer Affairs' Substance Abuse Coordination Committee's Uniform Standards Regarding Substance-Abusing Healing Arts Licensees (April 2011) [hereafter "Uniform Standards"], which are hereby incorporated by reference. The "Uniform Standards" describe the mandatory conditions that apply to a substance abusing licensee, except that the Board may impose more restrictive conditions if necessary to protect the public. Neither the board nor an administrative law judge may impose any conditions or terms of probation that are less restrictive than the "Uniform Standards."

(b) If the conduct found to be grounds for discipline involves drugs and/or alcohol, the licensee shall be presumed to be a substance-abusing licensee for the purposes of section 315 of the Code. If the licensee does not rebut that presumption, in addition to any and all

relevant terms and conditions contained in the Disciplinary Guidelines, the "Uniform Standards" shall apply as written and be used in the order placing the licensee on probation.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 315, 315.2, 315.4, 2570.27, Business and Professions Code; and Section 11425.50(e), Government Code.

DATE: July 29, 2014



Heather Martin, Executive Officer
California Board of Occupational Therapy

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2013-0312-04	REGULATORY ACTION NUMBER 2014-0617-045	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
RECEIVED FOR FILING PUBLICATION DATE MAR 12 '13 MAR 22 '13		2014 JUN 17 PM 4:46 OFFICE OF ADMINISTRATIVE LAW	
Office of Administrative Law		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Board of Occupational Therapy			AGENCY FILE NUMBER (if any)

ENDORSED FILED IN THE OFFICE OF

2014 JUL 30 PM 3:19

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

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

1. SUBJECT OF NOTICE Stds related to Denial, Discipline & Reinstmt of lic	TITLE(S) 16	FIRST SECTION AFFECTED 4101	2. REQUESTED PUBLICATION DATE 3/22/13
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON Jeff Hanson	TELEPHONE NUMBER (916) 263-2092	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 2013 122	PUBLICATION DATE 3/22/2013	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Stds Related to Denial, Discipline & Reinstatement	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 4146.5 and 4147.5
	AMEND 4101 and 4147
TITLE(S) 16	REPEAL
3. TYPE OF FILING	
<input checked="" 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) _____	
<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only	
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)	
5. 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 type="checkbox"/> §100 Changes Without Regulatory Effect <input checked="" type="checkbox"/> Effective other (Specify) GC 11343.4(a)	
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY	
<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal	
<input checked="" type="checkbox"/> Other (Specify) Denise D. Brown, Director, Dept. of Consumer Affairs	
7. CONTACT PERSON Heather Martin	TELEPHONE NUMBER (916) 263-2294
FAX NUMBER (Optional) (916) 263-2701	E-MAIL ADDRESS (Optional) heather.martin@dca.ca.gov

DM per agency request 7/29/14

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>Heather Martin</i>	DATE 19 June 2014
TYPED NAME AND TITLE OF SIGNATORY HEATHER MARTIN, EXECUTIVE OFFICER	

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