CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulation: Regulations pertaining to Applications, Application Review Requirements, Military Exemptions, Renewals, Delinquent Renewals, Limited Permits, and Inactive Status

Sections Affected: Title 16, Division 39, California Code of Regulation (CCR) Sections 4110, 4112, 4120, 4121, 4123, and 4127

Introduction:
The California Board of Occupational Therapy (Board) is the state governmental agency that licenses occupational therapy practitioners and regulates the practice of occupational therapy. The Board administers, coordinates, and enforces provisions of the Occupational Therapy Practice Act. The Board's highest priority in exercising its licensing, regulatory, and disciplinary functions is to protect and promote the health, safety and welfare of California consumers.

This proposed action will establish rules for a temporary waiver of license renewal fees and professional development requirements for occupational therapy practitioners who are on active duty in the military. This proposed action seeks to establish expedited license application processing for an applicant who is the spouse of an individual that is serving on active duty who is stationed in California. This proposed action seeks to establish a policy that the Board can issue a Limited Permit to an applicant who has met all requirements for licensure but whose educational institution is unable to issue an official transcript in a timely manner thereby delaying licensure. This proposed action will clarify when a delinquent license renewal becomes effective, makes several minor technical edits to delete language that is obsolete, and adds language to identity the title and form number of Board's application for licensure to conform to state requirements.

Specific Purpose of each adoption, amendment or repeal:

AMEND CCR SECTION 4110 – APPLICATION

The existing regulation establishes and clarifies that an application for licensure must be submitted by an individual who seeks licensure. This proposed action will delete reference to term "certificate" and adds language to identify the title and form number of the Board's application for licensure. It also makes a minor technical edit to delete the acronym "NBCOT" for National Board for Certification in Occupational Therapy from the language, as unnecessary.

The Board seeks these amendments because SB 821 (Chapter 307, Statutes 2009) specified that occupational therapy assistants shall be referred to as "licensed" not "certified." Thus the Board is seeking to eliminate the old and obsolete reference to "certification" and align the regulatory language with that used in statute. The Board is

adding the title and form number of its application for licensure to conform with state regulatory requirements under Title 1, CCR 20(c)(4). The Board is seeking to eliminate the acronym “NBCOT” from the section since there is only a single reference to the National Board for Certification in Occupational Therapy in the section.

The anticipated benefit of this regulatory action is to bring clarity and consistency in the way occupational therapy assistant practitioners are referenced in regulation and statute. It also serves to clearly identify the title and form number of the Board’s application for licensure to conform to state requirements and makes a minor technical edit to delete an unnecessary acronym from the section.

AMEND CCR SECTION 4112 – REVIEW OF APPLICATION

The existing regulation establishes that within 30-days of receipt of an application for licensure, staff shall notify an applicant, in writing, whether their application is complete or deficient. This proposed action will establish a process for expediting a license application for an applicant who holds a current occupational therapy license in another state that is in a legal union with an active duty member of the Armed Forces who is stationed in California. This proposed action will establish that applicants in a legal union with an active duty member who is stationed in California shall receive written notice whether their application is complete or deficient within 10-days of receipt of the application in the Board’s office. This proposed action does not waive any other application requirements, including but not limited to, the transcript, background check, verification of the standing of other state licenses held, and verification of passing the national examination.

The Board seeks these amendments to establish rules and procedures to implement new legislation, AB 1904 (Chapter 399, Statutes 2012).

The anticipated benefit of this regulatory action is to reduce the application processing timeframe and any barrier to practice for an applicant whose spouse has called to active duty in the Armed Forces in California in support and recognition of their spouse’s service.

AMEND CCR SECTION 4120 – RENEWAL OF A LICENSE

Existing regulations establish rules for the renewal of a license and indicates when a license expires. This proposed action deletes all references to “certificate” and “certificate holder” since occupational therapy assistants are no longer referred to as being “certified” and are considered “licensed”. This proposed action will establish rules for the temporary waiver of license renewal requirements for a licensee who is serving on active duty in the Armed Forces, Reserves, or National Guard (further only referred to as Armed Forces) when the license expires. This proposed action is not meant or intended in any way to circumvent licensure laws that are designed for public protection. Language contained in this proposed action establishes and clarifies that during the period the license renewal requirement is temporarily being waived the licensee is prohibited from providing services to the public. However, a licensee whose renewal requirement is being temporarily waived for active duty service may request that he or

she be granted “military active” status by the Board for the limited purpose of only rendering occupational therapy services to Armed Forces personnel and their families. This proposed action will establish that a licensee keep the Board apprised of his or her status and provide the Board notice, in writing, within 60-days days of his or her notice of discharge. Since the purpose and design of this proposed action is to provide a temporary waiver of renewal requirements while a licensee is serving on active duty it is necessity to establish a timeframe for the licensee to renew the license after their discharge. Therefore language contained in the proposed action establishes that a licensee must pay the biennial renewal fee and complete the continuing competency requirements required for active renewal within 6 months of their discharge. Any practitioner that missed the 6 month deadline would then subject their license to delinquent renewal fee penalties just as other practitioners are subject if they renew delinquently.

The Board seeks these amendments to establish rules and procedures for implementing new legislation AB 1588 (Chapter 742, Statutes 2012).

The anticipated benefit of this regulatory action is to provide support, recognition, and demonstrate appreciation of those who serve in the Armed Forces who protect our freedom and way of life. This regulatory action implements appropriate allowances and considerations for licensees and spouses who are serving on active duty.

AMEND CCR SECTION 4121 – RENEWAL OF EXPIRED LICENSE, APPLICATION; FEES; EFFECTIVE DATE

Existing regulations establish rules relating to the renewal of an expired license which includes, but is not limited to, assessment of a delinquent fee. This proposed action deletes all references to “certificate” and “certificate holder” since occupational therapy assistants are no longer referred to as being “certified” and are considered “licensed”. This proposed regulatory action will also clarify that the effective date of a delinquent renewal shall be when the Board “receives” a complete renewal application (practitioner answers conviction/discipline statement, verifies completion of continuing competence requirement, and submits delinquent and renewal fees) as opposed to when it was “filed” or mailed. This clarification is necessary because in many instances delinquent renewal applications are incomplete and in rare circumstances practitioners have claimed the renewal application had been lost by the postal service. This proposed regulation is designed to eliminate any inference that a practitioner may resume practice upon filing or mailing a renewal application and until Board staff can verify that all requirements for delinquent renewal have been met. This proposed action will provide an exemption from paying the delinquent renewal fee for a license that expired while the practitioner was on active duty in the Armed Forces as long as the licensee reactivates (applies and pays license renewal fee and meets all renewal requirements) the license within six months of his or her discharge from active duty consistent with proposed CCR Section 4120(f).

The Board seeks these amendments to establish rules and procedures for implementing new legislation AB 1588 (Chapter 742, Statutes 2012) and to clarify when a delinquent renewal becomes effective and the licensee may resume practice.

The anticipated benefit of this regulatory action is to provide support, recognition, and demonstrate appreciation for those serving in the Armed Forces who protect our freedom and way of life. Amendments contained in this proposed regulatory are designed to eliminate any premature resumption of practice until it can be verified all delinquent renewal requirements have been met.

AMEND CCR SECTION 4123 – LIMITED PERMIT

Existing regulations establish rules for qualifying for a limited permit and provide parameters for notifying the Board of any change in a permit holder's employer and/or supervisor. This proposed regulatory action amends existing regulations to require a permit holder to notify the Board of any change in employer and/or supervisor with five (5) days as opposed to the ten (10) days. This proposed regulatory action will also establish that the Board may issue a limited permit for a period of three (3) months to an applicant who has fulfilled the education, fingerprint, and examination requirements to qualify for issuance of a license, but through no fault of their own the occupational therapy degree program is unable to produce an official transcript in a timely manner thereby delaying licensure.

Since limited permit holders are unlicensed and require supervision from a licensed occupational therapist the Board believes it is more appropriate to receive notice of any change in supervisor and/or employment in a more expeditious manner to support and facilitate its public protection mandate. The rationale for seeking the ability to issue a limited permit to applicant who has met all requirements for licensure is to eliminate any unnecessary barrier to practice due to a technicality beyond the applicant's control. Due to budget cuts at various California educational institutions many graduates of occupational therapy degree programs have experienced delays in the issuance of official transcripts due to the lack of resources and diminished staffing. Since it can be established that all requirements for licensure have been met, barring the issuance of an official transcript, the Board seeks this proposed action to allow affected applicant's the ability to gain employment until an official transcript cab be produced. Applicants granted a limited permit under this proposed action would still be obligated to provide services under the supervision of a licensed occupational therapist.

The anticipated benefit of this regulatory action is enhanced consumer protection and to eliminate a barrier to practice for applicants who have met all requirements for licensure whose educational institutions are unable to produce an official transcript in a timely manner.

AMEND CCR SECTION 4127 – INACTIVE STATUS

(The renumbering of Section 4127 (formerly Section 4122) is part of a pending rulemaking action-reference: Z-202-0814-22)

Existing regulations establish rules for placing a license on inactive status and provides rules for activating an inactive license. This proposed action deletes all references to "certificate" from the language since occupational therapy assistants are no longer referred to as being "certified" and are considered "licensed". The Board is proposing a

minor technical edit by striking existing reference to “Pay” and replacing it with “Pays” in Section 4127(d)(1) to make it read better. Since the Board has implemented a continuing education requirement (continuing competence requirement) for renewing a license, language in Section 4127(d)(2) needs updating. Thus existing language “If the board requires completion of continuing education for renewal of an active license” is being eliminated and replaced with language indicating continuing education is a requirement for activating a license. The Board also seeks to eliminate confusing language that appears to establish it may establish a different continuing education requirement on a case by case basis. Since the Board has never had a situation where it needed to establish a continuing education requirement on a case by case basis and doing so could be considered as unfair, it seeks to eliminate this language.

The anticipate benefit of this regulatory action is to bring clarity to the rules and requirements for inactive status and activation of a license.

DOCUMENTS INCORPORATED BY REFERENCE:

- Initial Application for Licensure (Form ILA, Rev 8/12)

UNDERLYING DATA:

None

FISCAL IMPACT IN GENERAL:

This proposed regulatory action will not have a significant adverse economic impact on business.

This proposed regulatory action will not have an adverse economic impact on affected individuals (licensees and applicants who fall under the Board’s jurisdiction) who comply with the laws, regulations, and standards of occupational therapy practice.

ECONOMIC IMPACT ANALYSIS/ASSESSMENT

Background

This proposed regulatory action is designed to provide temporary financial relief to practitioners who are serving on active duty in the military when their license expires. It also will establish an expedited application license review process for the spouse of any individual that is serving on active duty who is stationed in California reducing any barrier to practice. This proposed regulatory action also seeks to allow the Board to issue a limited permit to an applicant who has met the education and examination requirements for licensure in situations where his or her educational institution cannot produce an official transcript in a timely manner delaying licensure thus creating an unnecessary barrier to practice.

Creation or Elimination of Jobs Within California

The Board has determined the proposed regulatory action will not create or eliminate a significant number of jobs within California. Components of this regulatory are designed to promote jobs and eliminate unnecessary barriers.

Creation of New Business or Elimination of Existing Business Within California

The Board has determined the proposed regulatory action will not create new business or eliminate existing business within California.

Expansion of Business Within California

The Board has determined the proposed regulatory action will not expand business within California.

Benefits of Regulations

This proposed regulatory action provides for a temporary waiver of license renewal requirements for licensees who are serving on active duty in the Armed Forces in recognition and appreciation of their service. This proposed regulatory action also reduces or eliminates delays in the initial licensing process for the spouse of an individual that is serving on active military duty in California due to the spouse's displacement and in appreciation and support of their spouse's service.

This proposed regulatory action reduces or eliminates a barrier to practice for applicants for licensure that have met the educational and examination requirements for licensure by allowing the Board to issue a limited permit in situations where the applicant's educational institution is unable to produce an official transcript in a timely manner.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES:

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is being proposed or would be less burdensome to affected private persons and business than the proposed regulations.