

# **CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**

## **FINAL STATEMENT OF REASONS**

**Hearing Date:** Not Applicable (No request from the public was received)

**Subject Matter of Proposed Regulations:** Post Professional Education and Training (Advanced Practice Instructor Qualifications)

**Sections Affected:** Title 16, Division 39, California Code of Regulations, Sections 4154

### **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.

**Local Mandate:** None

**Business Impact/Finding of Necessity:** There is potential that an instructor of post professional education will not qualify to provide instruction if their license is not active, current, and unrestricted. Therefore any educational provider that was utilizing the services of an instructor whose license does not meet the qualifications specified in the proposed regulatory action would be required to find a replacement. Thus, they may incur costs associated with recruiting and hiring an instructor with a current, active, unrestricted license.

The proposed regulatory action is a proactive approach to eliminate any possibility that an instructor whose license had been disciplined (e.g. revoked, suspended, or placed on probation) would be allowed to instruct post professional (advanced practice) coursework.

**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 received two joint comments from the Occupational Therapy Association of California (OTAC) and the American Occupational Therapy Association (AOTA).

**Comment dated October 4, 2012: “Occupational Therapy Practice Act – Advanced Practice”**  
The comments are general in nature and request that the statutes pertaining to advanced practice requirements be repealed or modified to replace the application process with a self-certification process. This comment was considered at the Board’s October 12, 2012, meeting

Board Response:

The Board is unable to accept or act on the comments because they are not specific to the proposed regulatory action. Moreover, implementation of the suggestion(s) would require legislative amendments.

Comment dated October 4, 2012: Regarding the “Advanced Practices – Proposed Amendment – Section 4154 Post Professional Education and Training”

OTAC and AOTA expressed concern that the proposed language may have an unintended consequence for occupational therapists, occupational therapy assistants, and other health professionals from out-of-state that present at educational events and courses in California. OTAC and AOTA suggested the Board add the following language: “This provision shall not apply to visiting instructors that are in California for the purposes of providing advanced practice training for a limited duration not to exceed 60 days in total in a calendar year and must be licensed (or otherwise regulated) in their profession in their home state.” This comment was considered at the Board’s October 12, 2012, meeting

Board Response:

The Board rejected this comment. Rationale: OTAC’s and AOTA’s proposed exemption language circumvents the state licensure requirement for occupational therapists and occupational therapy assistants set forth in Business and Professions Code (BPC) 2570.2, the advanced practice requirement set forth in BPC 2570.3(d), and professional representation requirement set forth in BPC 2570.18.

The purpose and intention of this proposed regulatory action is to promote and enhance the integrity of post-professional (advanced practice) education and training. Existing regulations do not prohibit healthcare practitioners that have been disciplined (e.g. revoked, suspended, or placed on probation) from providing advanced practice instruction/training. This proposed regulation addresses these concerns and brings transparency to instructor qualifications. The proposed regulatory action is intended and meant to apply to all healthcare practitioners whose practice is regulated by the State of California, any other state, territory, or jurisdiction providing advanced practice education and training.