

TITLE 16. CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments relevant to the proposed action in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 pm on October 8, 2012.

The Board does not intend to hold a hearing in this matter. If any interested party wishes that a hearing be held, he or she must make the request in writing to the board. The request must be received in the board office not later than 5:00 pm. on September 24, 2012.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the action substantially as described below or may modify such action if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified action will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the action.

Authority and Reference: Pursuant to the authority vested by sections 2570.13 and 2570.20 of the Business and Professions Code (BPC), and to implement, interpret or make specific sections 2570.2, 2570.3, the Board is proposing changes to Division 39, Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing regulations contained in section 4154 of Division 39, of Title 16, of the California Code of Regulations (CCR) set forth requirements to gain the Board's approval as a post professional education provider and course instructor in the advanced practice areas of hand therapy, physical agent modalities and swallowing. The qualification criteria for an advanced practice course instructor includes the instructor's education, training, experience, scope of practice, licenses held, and expertise relevant to the subject matter. This proposed regulatory action seeks to establish a new requirement for advanced practice instructors. The board seeks to require instructors who hold a health care license to possess an active, current, and unrestricted license.

The purpose and benefit of adopting this proposed regulatory action is to make transparent, establish, and eliminate any possibility that a licensed health care provider with a suspended, revoked, or restricted license be able to teach post-professional (advanced practice) coursework. The proposed regulatory action is consistent and compatible with the Board's mandate to promote and protect the public's health, safety, and welfare.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Non-discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Requires Reimbursement: None

Business Impact:

The proposed regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The amendment to proposed section 4154 may have a minimal cost impact to businesses that provide post-professional education for advance practice. Should a provider employ a course instructor who does not meet the current, active, or unrestricted license requirement, they may find it necessary to hire another licensee who does meet the requirement to teach the course content.

Results of Economic Impact Analysis:

The Board has determined that this regulatory proposal will not have an impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California. The anticipated benefits of the proposed regulatory action is to protect the health, safety, and welfare of California consumers, including the occupational therapists and occupational therapy assistants that are regulated by the Board, by ensuring instructors who teach advanced practice education are competent, ethical, and knowledgeable practitioners, and whose license is not subject to disciplinary action.

Cost Impact on Representative Private Person or Business:

The Board has determined that a course instructor who does not meet the current, active, or unrestricted license requirements or violates this regulation potentially could be disciplined and lose their license and teaching position ultimately resulting in loss of income.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that there would be fiscal impact to a post professional education provider who owns and operates his/her own private practice, does not employ any additional licensees, and teaches the required courses. Please refer to the Business Impact statement above.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would either be more effective in

carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposal described in this Notice or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Adoption of the proposed regulatory action is consistent with the Board's mandate to coordinate, administer, and regulate the practice of occupational therapy.

TEXT OF PROPOSAL AND INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons that sets forth the reasons for the proposed action and has all the information upon which the proposal is based.

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained from our website as listed below or upon written request from the contact person listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the Board's website as listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Jeff Hanson
CA Board of Occupational Therapy
2005 Evergreen Street, Suite 2050
Sacramento, CA 95815
(916) 263-2294
(916) 263-2701 (FAX)
cbot@dca.ca.gov

OR

Heather Martin
CA Board of Occupational Therapy
2005 Evergreen Street, Suite 2050
Sacramento, CA 95815
(916) 263-2294
(916) 263-2701 (FAX)
cbot@dca.ca.gov

Website Access: All materials regarding this proposal can be found on-line at www.bot.ca.gov > **Laws and Regulations** > **Proposed Regulations**.