

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
Title 16, Division 39, California Code of Regulations

Order of Adoption

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

Amend Title 16, Division 39, Article 8 California Code of Regulations to read as follows:

Article 8. ~~Ethical Standards of Practice~~ Service Delivery Standards

§ 4170. Ethical Standards of Practice

A violation of any ethical standard of practice constitutes grounds for disciplinary action. Every person who holds a license, ~~certificate or a limited permit issued by the board, or is practicing on a license issued by another state pursuant to sections 901 or 2570.4 of the Code,~~ shall comply with the following ethical standards of practice:

(a) Occupational therapy practitioners shall comply with state and federal laws pertaining to discrimination.

(1) An occupational therapy practitioner shall consider how a client's or patient's economic status, age, ethnicity, race, disability, sexual orientation, gender, gender identity, religion, residence, or culture, impact health care practices and incorporate these considerations in the provision of his or her services.

(2) An occupational therapist offering free or reduced-fee occupational therapy services shall exercise the same standard of care when providing those services as for full fee services.

(b) Occupational therapy practitioners shall take reasonable precautions to avoid imposing or inflicting harm upon the client or to his or her property.

(1) Occupational therapy practitioners shall not exploit clients in any manner or harm recipients of occupational therapy services, students, research participants, or employees.

(2) Occupational therapy practitioners shall, while a relationship exists as an occupational therapy practitioner, educator, researcher, or supervisor, and within six (6) months of termination of occupational therapy services, avoid relationships or associations that include, but are not limited to, emotional, physical, psychological, financial, and social, or activities that interfere with professional judgement and objectivity, including avoiding:

(A) Any sexual relationship or activity, even if consensual, with any recipient of service, including any family member or significant other of the recipient of services, and

(B) Any sexual relationship or activity, even if consensual, with any student, or research participant, under direct supervision, and

(C) Bartering for services or establishing any relationship to further one's own physical, emotional, financial, political, or business interests at the expense of the best interests of recipients of services, or the potential for exploitation and conflict of interest.

(3) This subsection (b) shall not apply to consensual sexual contact between a licensee and his or her spouse, registered domestic partner, or person in an equivalent domestic relationship, when that licensee provides occupational therapy services to his or her spouse, registered domestic partner, or person in an equivalent domestic relationship.

(c) Occupational therapy practitioners shall collaborate with clients, caretakers or other legal guardians in setting goals and priorities throughout the intervention process.

(1) Occupational therapy practitioners shall fully inform the client of the nature, risks, and potential outcomes of any interventions.

(2) Occupational therapy practitioners shall obtain informed consent from clients involved in research activities and indicate in the medical record that they have fully informed the client of potential risks and outcomes.

(3) Occupational therapy practitioners shall respect the client's right to refuse professional services or involvement in research or educational activities.

(4) Occupational therapy practitioners shall maintain patient confidentiality unless otherwise mandated by local, state or federal regulations.

(d) Occupational therapy practitioners shall perform occupational therapy services only when they are qualified by education, training, and experience to do so:

~~(1) Occupational therapy practitioners shall hold the appropriate credentials for the services they provide.~~

~~(2) Occupational therapy practitioners and shall refer to or consult with other service providers whenever such a referral or consultation is necessary for the care of the client. Such referral or consultation should shall be done in collaboration with the client.~~

(e) Occupational therapy practitioners shall, through completion of professional development activities required for license renewal or in other ways assure continued competence with respect to his or her own current practice and technology.

(f) Occupational therapy practitioners shall report to the Board any acts committed by another occupational therapy practitioner that they have reason to believe are unethical or illegal in practice, education, research, billing, or documentation, and shall cooperate with the Board by providing information, documentation, declarations, or assistance as may be allowed by law.

(g) Occupational therapy practitioners shall make all other mandatory reporting to the appropriate authorities as required by law.

~~(e)~~ (h) Occupational therapy practitioners shall comply with the Occupational Therapy Practice Act, the California Code of Regulations, and all other related local, state, and federal laws, and shall comply with the following:

(1) Practice occupational therapy only when holding a current and valid license issued by the Board, and appropriate national, state, or other requisite credentials for the services they provide; and

(2) Practice occupational therapy within his or her own level of competence and scope of practice.

~~(f)~~ (i) Occupational therapy practitioners shall provide accurate information about occupational therapy services.

~~(4)~~ Occupational therapy practitioners and shall accurately represent their credentials, qualifications, education, experience, training, and competence.

~~(2)~~ (j) Occupational therapy practitioners shall disclose any professional, personal, financial, business, or volunteer affiliations that may pose a conflict of interest to those with whom they may establish a professional, contractual, or other working relationship.

~~(3)~~ (k) Occupational therapy practitioners shall refrain from using not use or participating participate in the use of any form of communication that contains false, fraudulent, deceptive statements or claims.

~~(g)~~ (l) Occupational therapy practitioners shall report to the Board acts constituting grounds for discipline as defined in Section 2570.28 of the Occupational Therapy Practice Act.

Note: Authority Cited: Business and Professions Code section 2570.20. Reference: Business and Professions Code sections 726, 2570.4, 2570.20 and 2570.36.



(See Instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

| | | | |
|-----------------|--------------------|--------------------------|------------------|
| OAL FILE NUMBER | NOTICE FILE NUMBER | REGULATORY ACTION NUMBER | EMERGENCY NUMBER |
| | Z-2015-0330-02 | 2016-0324-01S | |

For use by Office of Administrative Law (OAL) only

| | |
|--------------------------------------|------------------------------|
| RECEIVED FOR FILING PUBLICATION DATE | 2016 MAR 24 A 11:13 |
| MAR 30 '15 | APR 10 '15 |
| Office of Administrative Law | OFFICE OF ADMINISTRATIVE LAW |
| NOTICE | REGULATIONS |

ENDORSED - FILED
 In the office of the Secretary of State
 of the State of California
 MAY 04 2016
 1:36 PM

AGENCY WITH RULEMAKING AUTHORITY
 California Board of Occupational Therapy

AGENCY FILE NUMBER (if any)

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

| | | | |
|--|---|------------------------------------|---|
| 1. SUBJECT OF NOTICE Ethical Standards of Practice | TITLE(S) 16 | FIRST SECTION AFFECTED 4170 | 2. REQUESTED PUBLICATION DATE April 10, 2015 |
| 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 checked="" type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn | ACTION ON PROPOSED NOTICE | NOTICE REGISTER NUMBER 2015-152 | PUBLICATION DATE 7/10/2015 |

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

| | |
|---|--|
| 1a. SUBJECT OF REGULATION(S) Ethical Standards of Practice | 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 |
| | AMEND |
| | REPEAL |
| TITLE(S) 16 | |

3. TYPE OF FILING

| | | | |
|---|---|---|---|
| <input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) | <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"/> Emergency Readopt (Gov. Code, §11346.1(h)) | <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) |
| <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) | <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) | <input type="checkbox"/> File & Print | <input type="checkbox"/> Print Only |
| <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) | <input type="checkbox"/> Other (Specify) | | |

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)
 December 2, 2015 to December 16, 2015

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11345.1(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 type="checkbox"/> Effective other (Specify) |
|--|--|---|--|

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) Awet Kidane, Director, Department 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 |
|-------------------------------------|----------------------------------|---------------------------------------|--|

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 | DATE 3/21/2016 |
| TYPED NAME AND TITLE OF SIGNATORY Heather Martin, Executive Officer, California Board of Occupational Therapy | |

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED
 MAY 04 2016
 Office of Administrative Law