

## **AGENDA ITEM 11**

### **DISCUSSION AND CONSIDERATION OF AMENDING TITLE 16, CCR SECTIONS 4100 AND 4101, ADDING NEW SECTIONS 4144, 4145, 4146, 4147.5, AND 4148.**

The proposed text is attached for review.

# CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

## Specific Language

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

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

1. Section 4100 is amended to read as follows:

### **§ 4100. Definitions.**

In addition to the definitions found in Business and Professions Code section 2570.2, the following terms are used and defined herein:

(a) ~~“Certificate” means the authority granted by the board to a person to offer occupational therapy services as an occupational therapy assistant under the appropriate supervision of an occupational therapist.~~

(b) (a) “Code” means the Business and Professions Code.

(c) (b) “Holder” means the person to whom a license, ~~certificate~~ or limited permit has been issued by the board.

(d) (c) “License” means the authority granted by the board to a person to offer occupational therapy services as an occupational therapist or an occupational therapy assistant.

(e) (d) “Limited permit” means the authority granted by the board to a person to offer occupational therapy services under the direction and appropriate supervision of an occupational therapist.

(f) ~~“Incompetence” is the lack of possession of or the failure to exercise that degree of knowledge, learning, skill, ability, care or experience ordinarily possessed and exercised by a competent licensed professional.~~

(g) ~~“Negligence” is a departure from the standard of care, which under similar circumstances, would have been ordinarily exercised by a competent licensed professional.~~

(h) ~~“Gross negligence” is an extreme departure from the standard of care, which under similar circumstances, would have been ordinarily exercised by a competent licensed professional.~~

(i) ~~For the purposes of denial, suspension, or revocation of a license, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of an occupational therapy practitioner, if it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license or in a manner inconsistent with the public health, safety, or welfare. Such crimes or acts include but are not limited to those involving the following:~~

(1) ~~Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of or conspiring to violate any provision or term of the Occupational Therapy Practice Act.~~

(2) ~~Fiscal dishonesty, theft or larceny.~~

(3) ~~An incident involving controlled substances to the extent that practice is impaired or a threat to the health or safety of themselves or others~~

(4) ~~Conviction of a crime involving harassment or stalking (as defined by the Penal Code).~~

(5) ~~Conviction of a crime involving lewd conduct, prostitution or solicitation thereof, or pandering and/or indecent exposure (as defined by the Penal Code).~~

(6) ~~Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.~~

(7) ~~Failure to comply with any mandatory reporting requirements.~~

~~(8) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.~~

(j)(e) "The Occupational Therapy Practice Act" or "Act" means Chapter 5.6 of Division 2, of the Business and Professions Code.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 2570, 2570.2 and 2570.5, Business and Professions Code.

2. Section 4101 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 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 11500 et seq., and 11415.60, Government Code.

*NOTE: Article 5.5 as referenced in numbers 3- 7 below, is being added as part of rulemaking file number Z-2010-0601-03.*

3. Section 4146 is added to Article 5.5 to read as follows:

**§ 4146. Definitions.**

(a) "Incompetence" is the lack of possession of or the failure to exercise that degree of knowledge, learning, skill, ability, care or experience ordinarily possessed and exercised by a competent licensed professional.

(b) "Negligence" is a departure from the standard of care, which under similar circumstances, would have been ordinarily exercised by a competent licensed professional.

(c) "Gross negligence" is an extreme departure from the standard of care, which under similar circumstances, would have been ordinarily exercised by a competent licensed professional.

(d) For the purposes of denial, suspension, or revocation of a license, a crime or act shall be considered to be "substantially related to the qualifications, functions or duties of an occupational therapy practitioner," if it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license or in a manner inconsistent with the public health, safety, or welfare. Such crimes or acts include but are not limited to those involving the following:

(1) Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of or conspiring to violate any provision or term of the Occupational Therapy Practice Act.

- (2) Fiscal dishonesty, theft or larceny.
- (3) An incident involving controlled substances to the extent that practice is impaired or a threat to the health or safety of themselves or others.
- (4) Conviction of a crime involving harassment or stalking (as defined by the Penal Code).
- (5) Conviction of a crime involving lewd conduct, prostitution or solicitation thereof, or pandering and/or indecent exposure (as defined by the Penal Code).
- (6) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.
- (7) Failure to comply with any mandatory reporting requirements.
- (8) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 2570, 2570.2 and 2570.5, Business and Professions Code.

4. Section 4148 is added to Article 5.5 to read as follows:

**§ 4148. Examination for Competency.**

In addition to any other requirements for licensure, whenever it appears that an applicant for a license may be unable to practice occupational therapy safely because the applicant's ability to practice may be impaired due to mental illness or physical illness affecting competency, the board may require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the board. The board shall pay the full cost of such examination. An applicant's failure to comply with the requirement shall render his or her application incomplete.

The report of the evaluation shall be made available to the applicant.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 2570.6 and 2570.26, Business and Professions Code.

5. Section 4149 is added to Article 5.5 to read as follows:

**§ 4149. Other Actions Constituting Unprofessional Conduct.**

In addition to the conduct described in Section 2570.28(a) and 2570.29 of the Code, "unprofessional conduct" also includes but is not limited to the following:

(a) Including or permitting to be included any of the following provisions in an agreement to settle a civil dispute arising from the licensee's practice, whether the agreement is made before or after the filing of an action:

(1) A provision that prohibits another party to the dispute from contacting, cooperating, or filing a complaint with the board.

(2) A provision that requires another party to the dispute to withdraw a complaint the party has filed with the board.

(b) Failure to provide to the board, as directed, lawfully requested certified copies of documents within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the certified documents with this time period for good cause, including but not limited to, physical inability to access the records in the time allowed due to illness or travel. This subsection shall not apply to a licensee who does not have access to, and control over, medical records.

(c) Failure to cooperate and participate in any board investigation pending against the licensee. This subsection shall not be construed to deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privilege. This subsection shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's practice. Any exercise by a licensee of any constitutional or statutory privilege shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.

(d) Failure to report to the board within 30 days any of the following:

(1) The bringing of an indictment or information charging a felony against the licensee.

(2) The arrest of the licensee.

(3) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no contest, of any felony or misdemeanor.

(4) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(e) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 2570.28 and 2570.29, Business and Professions Code.

6. Section 4149.1 is added to Article 5.5 to read as follows:

**§ 4149.1. Revocation for Sexual Contact.**

Notwithstanding the disciplinary guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Code, with a patient, or has committed an act or been convicted of a sex offense as defined in Section 44010 of the Education Code, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

Note: Authority cited: Section 2570.20 Business and Profession Code, and Section 11400.20, Government Code. Reference: Sections 475, 480, 481, 482, 490, 496, 729, 2570.26, 2570.27, 2570.28, 2570.29, 2570.30, 2570.31, 2570.32, Business and Professions Code; Section 44010, Education Code; and Sections 11400.20 and 11425.50(e), Government Code.

7. Section 4149.2 is added to Article 5.5 to read as follows:

**§ 4149.2. Required Actions Against Registered Sex Offenders.**

(a) Except as otherwise provided, if an individual is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, or military or federal law, the board shall:

(1) Deny an application by the individual for licensure.

(2) Revoke the license of the individual, and shall not stay the revocation nor place the license on probation.

(3) Not reinstate or reissue the individual's license.

(b) This section shall not apply to any of the following:

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that required registration.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code; provided, however, that nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under any other provision of state law based upon the licensee's conviction under section 314 of the Penal Code.

(3) Any administrative proceeding that is fully adjudicated prior to the effective date of this regulation shall not be subject to the provisions of this section. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition in subsection (a) against reinstating a license shall govern.

NOTE: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 2570.25, 2570.26, 2570.27, and 2570.28, Business and Professions Code.

## **AGENDA ITEM 12**

### **DISCUSSION AND CONSIDERATION OF AMENDING TITLE 16, CCR SECTION 4161, CONTINUING COMPETENCY.**

The proposed text is attached for review.

# CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

## PROPOSED AMENDED REGULATORY LANGUAGE Title 16, Division 39, California Code of Regulations

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

### Article 7. Continuing Competency Requirements

#### § 4161. Continuing Competency.

(a) Effective January 1, 2006, each occupational therapy practitioner renewing a license or certificate under Section 2570.10 of the Code shall submit evidence of meeting continuing competency requirements by having completed twenty-four (24) professional development units (PDUs) during the preceding renewal period, ~~twelve (12) PDUs for each twelve-month period,~~ acquired through participation in professional development activities.

(1) One (1) hour of participation in a professional development activity qualifies for one PDU;

(2) One (1) academic credit equals 10 PDUs;

(3) One (1) Continuing Education Unit (CEU) equals 10 PDUs.

(b) Topics and subject matter shall be pertinent to the practice of OT. Courses predominantly focused on business issues, marketing, or exploring opportunities for personal growth are not eligible for credit. Course material must have a relevance or direct application to a consumer of OT services. Except as provided in subdivision (c), ~~p~~Professional development activities acceptable to the board include ~~but are not limited to,~~ programs or activities sponsored by the American Occupational Therapy Association (AOTA) or the Occupational Therapy Association of California; post-professional coursework completed through any approved or accredited educational institution, ~~that is not part of a course of study leading to an academic degree;~~ or otherwise meets all of the following criteria:

(1) The program or activity contributes directly to professional knowledge, skill, and ability;

~~(2) The program or activity relates directly to the practice of occupational therapy;~~ and

~~(3)~~ (2) The program or activity must be objectively measurable in terms of the hours involved.

(c) PDUs may also be obtained through any or a combination of the following:

(1) Involvement in structured special interest or study groups with a minimum of three (3) participants. Three (3) hours of participation equals one (1) PDU, with a maximum of six (6) PDUs credited per renewal period.

(2) Structured mentoring with an individual skilled in a particular area. For each 20 hours of being mentored, the practitioner will receive three (3) PDUs, with a maximum of six (6) PDUs credited per renewal period.

(3) Structured mentoring of a colleague to improve his/her skills. Twenty (20) hours of mentoring equals three (3) PDUs, with a maximum of six (6) PDUs credited per renewal period.

(4) Supervising the fieldwork of Level II occupational therapist and occupational therapy assistant students. For each 60 hours of supervision, the practitioner will receive .5 PDU, with a maximum of eight (8) PDUs credited per renewal period.



- (5) Publication of an article in a non-peer reviewed publication. Each article equals five (5) PDUs, with a maximum of ten (10) PDUs credited per renewal period.
- (6) Publication of an article in a peer-reviewed professional publication. Each article equals 10 PDUs, with a maximum of ten (10) PDUs credited per renewal period .
- (7) Publication of chapter(s) in occupational therapy or related professional textbook. Each chapter equals 10 PDUs, with a maximum of ten (10) PDUs credited per renewal period.
- (8) Making professional presentations at workshops, seminars and conferences. For each hour presenting, the practitioner will receive two (2) PDUs, with a maximum of six (6) PDUs credited per renewal period.
- (9) Attending a meeting of the California Board of Occupational Therapy. Each meeting attended equals two (2) PDUs, with a maximum of six (6) PDUs ~~earned~~ credited per renewal period.
- (10) Attending board outreach activities. Each presentation attended equals two (2) PDUs, with a maximum of four (4) PDUs ~~earned~~ credited per renewal period.
- (d) Partial credit will not be given for the professional development activities listed in subsection (c) and a maximum of XX (to be determined) PDUs may be credited for the activities listed in subsection (c).
- (e) This section shall not apply to the first license or certificate renewal following issuance of the initial license or certificate.
- (f) Of the total number of PDUs required for each renewal period, a minimum of one half of the units must be directly related to the delivery of occupational therapy services, which  
~~(1) The delivery of occupational therapy services~~ may include: models, theories or frameworks that relate to client/patient care in preventing or minimizing impairment, enabling function within the person/environment or community context. Other activities may include, but are not limited to, occupation based theory assessment/interview techniques, intervention strategies, and community/environment as related to one's practice.
- (g) Applicants who have not been actively engaged in the practice of occupational therapy within the past five years completing continuing competency pursuant to section 2570.14(a) of the Code to qualify for licensure/certification shall submit evidence of meeting the continuing competency requirements by having completed, during the two year period immediately preceding the date the application was received, forty (40) PDUs that meet the requirements of subsection (b). The forty PDUs shall include:
- (1) Thirty-seven (37) PDUs directly related to the delivery of occupational therapy services, which may include the scope of practice for occupational therapy practitioners or the occupational therapy practice framework;
  - ~~(2) One (1) PDU related to occupational therapy scope of practice;~~
  - ~~(3) One (1) PDU related to occupational therapy framework;~~
  - (4) ~~One (1)~~ Three (3) PDUs related to ethical standards of practice ~~for an occupational therapist in occupational therapy.~~

Note: Authority cited: Sections 2570.10 and 2570.20, Business and Professions Code.  
 Reference: Section 2570.10, Business and Professions Code.

## **AGENDA ITEM 13**

### **DISCUSSION AND CONSIDERATION OF AMENDING TITLE 16, CCR SECTION 4170, ETHICAL STANDARDS OF PRACTICE.**

The following are attached for review:

- Proposed Text
- The American Occupational Therapy Association's document:  
*Occupational Therapy Code of Ethics and Ethics Standards (2010)*

## **§ 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 limited permit issued by the board shall comply with the following ethical standards of practice:

- (a) Occupational therapy practitioners shall comply with state and federal laws pertaining to discrimination.
- (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.
  - (2) Occupational therapy practitioners shall avoid relationships or activities that interfere with professional judgment and objectivity.
- (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 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 be done in collaboration with the client.
- (e) 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.
- (f) Occupational therapy practitioners shall provide accurate information about occupational therapy services.
  - (1) Occupational therapy practitioners shall accurately represent their credentials, qualifications, education, experience, training, and competence.
  - (2) 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) Occupational therapy practitioners shall refrain from using or participating in the use of any form of communication that contains false, fraudulent, deceptive statements or claims.
- (g) 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.
- (h) Occupational Therapy practitioners shall abide by the standards set forth in the American Occupational Therapy Association's "Occupational Therapy Code of Ethics and Ethics Standards" (2010), incorporated herein by reference.

Note: Authority Cited: Business and Professions Code section 2570.20. Reference: Business and Professions Code section 2570.20.

# Occupational Therapy Code of Ethics and Ethics Standards (2010)

## PREAMBLE

The American Occupational Therapy Association (AOTA) *Occupational Therapy Code of Ethics and Ethics Standards (2010)* (“Code and Ethics Standards”) is a public statement of principles used to promote and maintain high standards of conduct within the profession. Members of AOTA are committed to promoting inclusion, diversity, independence, and safety for all recipients in various stages of life, health, and illness and to empower all beneficiaries of occupational therapy. This commitment extends beyond service recipients to include professional colleagues, students, educators, businesses, and the community.

Fundamental to the mission of the occupational therapy profession is the therapeutic use of everyday life activities (occupations) with individuals or groups for the purpose of participation in roles and situations in home, school, workplace, community, and other settings.

“Occupational therapy addresses the physical, cognitive, psychosocial, sensory, and other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect health, well being, and quality of life” AOTA, 2004). Occupational therapy personnel have an ethical responsibility primarily to recipients of service and secondarily to society.

The *Occupational Therapy Code of Ethics and Ethics Standards (2010)* was tailored to address the most prevalent ethical concerns of the profession in education, research, and practice. The concerns of stakeholders including the public, consumers, students, colleagues, employers, research participants, researchers, educators, and practitioners were addressed in the creation of this document. A review of issues raised in ethics cases, member questions related to ethics, and content of other professional codes of ethics were utilized to ensure that the revised document is applicable to occupational therapists, occupational therapy assistants, and students in all roles.

The historical foundation of this Code and Ethics Standards is based on ethical reasoning surrounding practice and professional issues, as well as on empathic reflection regarding these interactions with others (see e.g., AOTA, 2005, 2006). This reflection resulted in the establishment of principles that guide ethical action, which goes beyond rote following of rules or application of principles. Rather, *ethical action* it is a manifestation of moral character and mindful reflection. It is a commitment to benefit others, to virtuous practice of artistry and science, to genuinely good behaviors, and to noble acts of courage.

While much has changed over the course of the profession’s history, more has remained the same. The profession of occupational therapy remains grounded in seven core concepts, as identified in the *Core Values and Attitudes of Occupational Therapy Practice* (AOTA, 1993): *altruism, equality, freedom, justice, dignity, truth, and prudence*. *Altruism* is the individual’s ability to place the needs of others before their own. *Equality* refers to the desire to promote fairness in interactions with others. The concept of *freedom* and personal choice is paramount in a profession in which the desires of the client must guide our interventions. Occupational therapy practitioners, educators, and researchers relate in a fair and impartial manner to individuals with whom they interact and respect and adhere to the applicable laws and standards regarding their area of practice, be it direct care, education, or research (*justice*). Inherent in the practice of

occupational therapy is the promotion and preservation of the individuality and *dignity* of the client, by assisting him or her to engage in occupations that are meaningful to him or her regardless of level of disability. In all situations, occupational therapists, occupational therapy assistants, and students must provide accurate information, both in oral and written form (*truth*). Occupational therapy personnel use their clinical and ethical reasoning skills, sound judgment, and reflection to make decisions to direct them in their area(s) of practice (*prudence*). These seven core values provide a foundation by which occupational therapy personnel guide their interactions with others, be they students, clients, colleagues, research participants, or communities. These values also define the ethical principles to which the profession is committed and which the public can expect.

The *Occupational Therapy Code of Ethics and Ethics Standards (2010)* is a guide to professional conduct when ethical issues arise. Ethical decision making is a process that includes awareness of how the outcome will impact occupational therapy clients in all spheres. Applications of Code and Ethics Standards Principles are considered situation-specific, and where a conflict exists, occupational therapy personnel will pursue responsible efforts for resolution. These Principles apply to occupational therapy personnel engaged in any professional role, including elected and volunteer leadership positions.

The specific purposes of the *Occupational Therapy Code of Ethics and Ethics Standards (2010)* are to

1. Identify and describe the principles supported by the occupational therapy profession.
2. Educate the general public and members regarding established principles to which occupational therapy personnel are accountable.
3. Socialize occupational therapy personnel to expected standards of conduct.
4. Assist occupational therapy personnel in recognition and resolution of ethical dilemmas.

The *Occupational Therapy Code of Ethics and Ethics Standards (2010)* define the set of principles that apply to occupational therapy personnel at all levels:

#### **DEFINITIONS**

- **Recipient of service:** Individuals or groups receiving occupational therapy.
- **Student:** A person who is enrolled in an accredited occupational therapy education program.
- **Research participant:** A prospective participant or one who has agreed to participate in an approved research project.
- **Employee:** A person who is hired by a business (facility or organization) to provide occupational therapy services.
- **Colleague:** A person who provides services in the same or different business (facility or organization) to which a professional relationship exists or may exist.
- **Public:** The community of people at large.

## **BENEFICENCE**

### **Principle 1. Occupational therapy personnel shall demonstrate a concern for the well-being and safety of the recipients of their services.**

Beneficence includes all forms of action intended to benefit other persons. The term *beneficence* connotes acts of mercy, kindness, and charity (Beauchamp & Childress, 2009). Forms of beneficence typically include altruism, love, and humanity. Beneficence requires taking action by helping others, in other words, by promoting good, by preventing harm, and by removing harm. Examples of beneficence include protecting and defending the rights of others, preventing harm from occurring to others, removing conditions that will cause harm to others, helping persons with disabilities, and rescuing persons in danger (Beauchamp & Childress, 2009).

#### **Occupational therapy personnel shall**

- A. Respond to requests for occupational therapy services (e.g., a referral) in a timely manner as determined by law, regulation, or policy.
- B. Provide appropriate evaluation and a plan of intervention for all recipients of occupational therapy services specific to their needs.
- C. Reevaluate and reassess recipients of service in a timely manner to determine if goals are being achieved and whether intervention plans should be revised.
- D. Avoid the inappropriate use of outdated or obsolete tests/assessments or data obtained from such tests in making intervention decisions or recommendations.
- E. Provide occupational therapy services that are within each practitioner's level of competence and scope of practice (e.g., qualifications, experience, the law).
- F. Use, to the extent possible, evaluation, planning, intervention techniques, and therapeutic equipment that are evidence-based and within the recognized scope of occupational therapy practice.
- G. Take responsible steps (e.g., continuing education, research, supervision, training) and use careful judgment to ensure their own competence and weigh potential for client harm when generally recognized standards do not exist in emerging technology or areas of practice.
- H. Terminate occupational therapy services in collaboration with the service recipient or responsible party when the needs and goals of the recipient have been met or when services no longer produce a measurable change or outcome.
- I. Refer to other health care specialists solely on the basis of the needs of the client.
- J. Provide occupational therapy education, continuing education, instruction, and training that are within the instructor's subject area of expertise and level of competence.
- K. Provide students and employees with information about the Code and Ethics Standards, opportunities to discuss ethical conflicts, and procedures for reporting unresolved ethical conflicts.
- L. Ensure that occupational therapy research is conducted in accordance with currently accepted ethical guidelines and standards for the protection of research participants and the dissemination of results.
- M. Report to appropriate authorities any acts in practice, education, and research that appear unethical or illegal.

- N. Take responsibility for promoting and practicing occupational therapy on the basis of current knowledge and research and for further developing the profession's body of knowledge.

## **NONMALEFICENCE**

### **Principle 2. Occupational therapy personnel shall intentionally refrain from actions that cause harm.**

*Nonmaleficence* imparts an obligation to refrain from harming others (Beauchamp & Childress, 2009). The principle of nonmaleficence is grounded in the practitioner's responsibility to refrain from causing harm, inflicting injury, or wronging others. While beneficence requires action to incur benefit, nonmaleficence requires non-action to avoid harm (Beauchamp & Childress, 2009). Nonmaleficence also includes an obligation to not impose risks of harm even if the potential risk is without malicious or harmful intent. This principle often is examined under the context of *due care*. If the standard of due care outweighs the benefit of treatment, then refraining from treatment provision would be ethically indicated (Beauchamp & Childress, 2009).

#### **Occupational therapy personnel shall**

- A. Avoid inflicting harm or injury to recipients of occupational therapy services, students, research participants, or employees.
- B. Make every effort to ensure continuity of services or options for transition to appropriate services to avoid abandoning the service recipient if the current provider is unavailable due to medical or other absence or loss of employment.
- C. Avoid relationships that exploit the recipient of services, students, research participants, or employees physically, emotionally, psychologically, financially, socially, or in any other manner that conflicts or interferes with professional judgment and objectivity.
- D. Avoid engaging in any sexual relationship or activity, whether consensual or nonconsensual, with any recipient of service, including family or significant other, student, research participant, or employee, while a relationship exists as an occupational therapy practitioner, educator, researcher, supervisor, or employer.
- E. Recognize and take appropriate action to remedy personal problems and limitations that might cause harm to recipients of service, colleagues, students, research participants, or others.
- F. Avoid any undue influences, such as alcohol or drugs, that may compromise the provision of occupational therapy services, education, or research.
- G. Avoid situations in which a practitioner, educator, researcher, or employer is unable to maintain clear professional boundaries or objectivity to ensure the safety and well-being of recipients of service, students, research participants, and employees.
- H. Maintain awareness of and adherence to the Code and Ethics Standards when participating in volunteer roles.
- I. Avoid compromising client rights or well-being based on arbitrary administrative directives by exercising professional judgment and critical analysis.

- J. Avoid exploiting any relationship established as an occupational therapist or occupational therapy assistant to further one's own physical, emotional, financial, political, or business interests at the expense of the best interests of recipients of services, students, research participants, employees, or colleagues.
- K. Avoid participating in bartering for services because of the potential for exploitation and conflict of interest unless there are clearly no contraindications or bartering is a culturally appropriate custom.
- L. Determine the proportion of risk to benefit for participants in research prior to implementing a study.

## **AUTONOMY AND CONFIDENTIALITY**

### **Principle 3. Occupational therapy personnel shall respect the right of the individual to self-determination.**

The principle of autonomy and confidentiality expresses the concept that practitioners have a duty to treat the client according to the client's desires, within the bounds of accepted standards of care and to protect the client's confidential information. Often *autonomy* is referred to as the *self-determination* principle. However, respect for autonomy goes beyond acknowledging an individual as a mere agent and also acknowledges a "person's right to hold views, to make choices, and to take actions based on personal values and beliefs" (Beauchamp & Childress, 2009, p. 103). Autonomy has become a prominent principle in health care ethics; the right to make a determination regarding care decisions that directly impact the life of the service recipient should reside with that individual. The principle of autonomy and confidentiality also applies to students in an educational program, to participants in research studies, and to the public who seek information about occupational therapy services.

#### **Occupational therapy personnel shall**

- A. Establish a collaborative relationship with recipients of service including families, significant others, and caregivers in setting goals and priorities throughout the intervention process. This includes full disclosure of the benefits, risks, and potential outcomes of any intervention; the personnel who will be providing the intervention(s); and/or any reasonable alternatives to the proposed intervention.
- B. Obtain consent before administering any occupational therapy service, including evaluation, and ensure that recipients of service (or their legal representatives) are kept informed of the progress in meeting goals specified in the plan of intervention/care. If the service recipient cannot give consent, the practitioner must be sure that consent has been obtained from the person who is legally responsible for that recipient.
- C. Respect the recipient of service's right to refuse occupational therapy services temporarily or permanently without negative consequences.
- D. Provide students with access to accurate information regarding educational requirements and academic policies and procedures relative to the occupational therapy program/educational institution.
- E. Obtain informed consent from participants involved in research activities, and ensure that they understand the benefits, risks, and potential outcomes as a result of their participation as research subjects.



- F. Respect research participant's right to withdraw from a research study without consequences.
- G. Ensure that confidentiality and the right to privacy are respected and maintained regarding all information obtained about recipients of service, students, research participants, colleagues, or employees. The only exceptions are when a practitioner or staff member believes that an individual is in serious foreseeable or imminent harm. Laws and regulations may require disclosure to appropriate authorities without consent.
- H. Maintain the confidentiality of all verbal, written, electronic, augmentative, and non-verbal communications, including compliance with HIPAA regulations.
- I. Take appropriate steps to facilitate meaningful communication and comprehension in cases in which the recipient of service, student, or research participant has limited ability to communicate (e.g., aphasia or differences in language, literacy, culture).
- J. Make every effort to facilitate open and collaborative dialogue with clients and/or responsible parties to facilitate comprehension of services and their potential risks/benefits.

## **SOCIAL JUSTICE**

### **Principle 4. Occupational therapy personnel shall provide services in a fair and equitable manner.**

*Social justice*, also called *distributive justice*, refers to the fair, equitable, and appropriate distribution of resources. The principle of social justice refers broadly to the distribution of all rights and responsibilities in society (Beauchamp & Childress, 2009). In general, the principle of social justice supports the concept of achieving justice in every aspect of society rather than merely the administration of law. The general idea is that individuals and groups should receive fair treatment and an impartial share of the benefits of society. Occupational therapy personnel have a vested interest in addressing unjust inequities that limit opportunities for participation in society (Braveman & Bass-Haugen, 2009). While opinions differ regarding the most ethical approach to addressing distribution of health care resources and reduction of health disparities, the issue of social justice continues to focus on limiting the impact of social inequality on health outcomes.

#### **Occupational therapy personnel shall**

- A. Uphold the profession's altruistic responsibilities to help ensure the common good.
- B. Take responsibility for educating the public and society about the value of occupational therapy services in promoting health and wellness and reducing the impact of disease and disability.
- C. Make every effort to promote activities that benefit the health status of the community.
- D. Advocate for just and fair treatment for all patients, clients, employees, and colleagues, and encourage employers and colleagues to abide by the highest standards of social justice and the ethical standards set forth by the occupational therapy profession.
- E. Make efforts to advocate for recipients of occupational therapy services to obtain needed services through available means.

- F. Provide services that reflect an understanding of how occupational therapy service delivery can be affected by factors such as economic status, age, ethnicity, race, geography, disability, marital status, sexual orientation, gender, gender identity, religion, culture, and political affiliation.
- G. Consider offering *pro bono* (“for the good”) or reduced-fee occupational therapy services for selected individuals when consistent with guidelines of the employer, third-party payer, and/or government agency.

## PROCEDURAL JUSTICE

**Principle 5. Occupational therapy personnel shall comply with institutional rules, local, state, federal, and international laws and AOTA documents applicable to the profession of occupational therapy.**

*Procedural justice* is concerned with making and implementing decisions according to fair processes that ensure “fair treatment” (Maiese, 2004). Rules must be impartially followed and consistently applied to generate an unbiased decision. The principle of procedural justice is based on the concept that procedures and processes are organized in a fair manner and that policies, regulations, and laws are followed. While *the law* and *ethics* are not synonymous terms, occupational therapy personnel have an ethical responsibility to uphold current reimbursement regulations and state/territorial laws governing the profession. In addition, occupational therapy personnel are ethically bound to be aware of organizational policies and practice guidelines set forth by regulatory agencies established to protect recipients of service, research participants, and the public.

### **Occupational therapy personnel shall**

- A. Be familiar with and apply the Code and Ethics Standards to the work setting, and share them with employers, other employees, colleagues, students, and researchers.
- B. Be familiar with and seek to understand and abide by institutional rules, and when those rules conflict with ethical practice, take steps to resolve the conflict.
- C. Be familiar with revisions in those laws and AOTA policies that apply to the profession of occupational therapy and inform employers, employees, colleagues, students, and researchers of those changes.
- D. Be familiar with established policies and procedures for handling concerns about the Code and Ethics Standards, including familiarity with national, state, local, district, and territorial procedures for handling ethics complaints as well as policies and procedures created by AOTA and certification, licensing, and regulatory agencies.
- E. Hold appropriate national, state, or other requisite credentials for the occupational therapy services they provide.
- F. Take responsibility for maintaining high standards and continuing competence in practice, education, and research by participating in professional development and educational activities to improve and update knowledge and skills.
- G. Ensure that all duties assumed by or assigned to other occupational therapy personnel match credentials, qualifications, experience, and scope of practice.
- H. Provide appropriate supervision to individuals for whom they have supervisory responsibility in accordance with AOTA official documents and local, state, and federal or national laws, rules, regulations, policies, procedures, standards, and guidelines.

- I. Obtain all necessary approvals prior to initiating research activities.
- J. Report all gifts and remuneration from individuals, agencies, or companies in accordance with employer policies as well as state and federal guidelines.
- K. Use funds for intended purposes, and avoid misappropriation of funds.
- L. Take reasonable steps to ensure that employers are aware of occupational therapy's ethical obligations as set forth in this Code and Ethics Standards and of the implications of those obligations for occupational therapy practice, education, and research.
- M. Actively work with employers to prevent discrimination and unfair labor practices, and advocate for employees with disabilities to ensure the provision of reasonable accommodations.
- N. Actively participate with employers in the formulation of policies and procedures to ensure legal, regulatory, and ethical compliance.
- O. Collect fees legally. Fees shall be fair, reasonable, and commensurate with services delivered. Fee schedules must be available and equitable regardless of actual payer reimbursements/contracts.
- P. Maintain the ethical principles and standards of the profession when participating in a business arrangement as owner, stockholder, partner, or employee, and refrain from working for or doing business with organizations that engage in illegal or unethical business practices (e.g., fraudulent billing, providing occupational therapy services beyond the scope of occupational therapy practice).

## VERACITY

### **Principle 6. Occupational therapy personnel shall provide comprehensive, accurate, and objective information when representing the profession.**

Veracity is based on the virtues of truthfulness, candor, and honesty. The principle of *veracity* in health care refers to comprehensive, accurate, and objective transmission of information and includes fostering the client's understanding of such information (Beauchamp & Childress, 2009). Veracity is based on respect owed to others. In communicating with others, occupational therapy personnel implicitly promise to speak truthfully and not deceive the listener. By entering into a relationship in care or research, the recipient of service or research participant enters into a contract that includes a right to truthful information (Beauchamp & Childress, 2009). In addition, transmission of information is incomplete without also ensuring that the recipient or participant understands the information provided. Concepts of veracity must be carefully balanced with other potentially competing ethical principles, cultural beliefs, and organizational policies. Veracity ultimately is valued as a means to establish trust and strengthen professional relationships. Therefore, adherence to the Principle also requires thoughtful analysis of how full disclosure of information may impact outcomes.

#### **Occupational therapy personnel shall**

- A. Represent the credentials, qualifications, education, experience, training, roles, duties, competence, views, contributions, and findings accurately in all forms of communication about recipients of service, students, employees, research participants, and colleagues.
- B. Refrain from using or participating in the use of any form of communication that contains false, fraudulent, deceptive, misleading, or unfair statements or claims.

- C. Record and report in an accurate and timely manner, and in accordance with applicable regulations, all information related to professional activities.
- D. Ensure that documentation for reimbursement purposes is done in accordance with applicable laws, guidelines, and regulations.
- E. Accept responsibility for any action that reduces the public's trust in occupational therapy.
- F. Ensure that all marketing and advertising are truthful, accurate, and carefully presented to avoid misleading recipients of service, students, research participants, or the public.
- G. Describe the type and duration of occupational therapy services accurately in professional contracts, including the duties and responsibilities of all involved parties.
- H. Be honest, fair, accurate, respectful, and timely in gathering and reporting fact-based information regarding employee job performance and student performance.
- I. Give credit and recognition when using the work of others in written, oral, or electronic media.
- J. Not plagiarize the work of others.

## **FIDELITY**

### **Principle 7. Occupational therapy personnel shall treat colleagues and other professionals with respect, fairness, discretion, and integrity.**

The principle of fidelity comes from the Latin root *fidelis* meaning loyal. *Fidelity* refers to being faithful, which includes obligations of loyalty and the keeping of promises and commitments (Veatch & Flack, 1997). In the health professions, fidelity refers to maintaining good-faith relationships between various service providers and recipients. While respecting fidelity requires occupational therapy personnel to meet the client's reasonable expectations (Purtillo, 2005), Principle 7 specifically addresses fidelity as it relates to maintaining collegial and organizational relationships. Professional relationships are greatly influenced by the complexity of the environment in which occupational therapy personnel work. Practitioners, educators, and researchers alike must consistently balance their duties to service recipients, students, research participants, and other professionals as well as to organizations that may influence decision-making and professional practice.

#### **Occupational therapy personnel shall**

- A. Respect the traditions, practices, competencies, and responsibilities of their own and other professions, as well as those of the institutions and agencies that constitute the working environment.
- B. Preserve, respect, and safeguard private information about employees, colleagues, and students unless otherwise mandated by national, state, or local laws or permission to disclose is given by the individual.
- C. Take adequate measures to discourage, prevent, expose, and correct any breaches of the Code and Ethics Standards and report any breaches of the former to the appropriate authorities.
- D. Attempt to resolve perceived institutional violations of the Code and Ethics Standards by utilizing internal resources first.
- E. Avoid conflicts of interest or conflicts of commitment in employment, volunteer roles, or research.

- F. Avoid using one's position (employee or volunteer) or knowledge gained from that position in such a manner that gives rise to real or perceived conflict of interest among the person, the employer, other Association members, and/or other organizations.
- G. Use conflict resolution and/or alternative dispute resolution resources to resolve organizational and interpersonal conflicts.
- H. Be diligent stewards of human, financial, and material resources of their employers, and refrain from exploiting these resources for personal gain.

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*Adopted by the Representative Assembly 2010Apr17.*

*Note. This document replaces the following rescinded Ethics documents 2010Apr18: the Occupational Therapy Code of Ethics (2005) (American Journal of Occupational Therapy, 59, 639–642); the Guidelines to the Occupational Therapy Code of Ethics (American Journal of Occupational Therapy, 60, 652–658); and the Core Values and Attitudes of Occupational Therapy Practice (American Journal of Occupational Therapy, 47, 1085–1086).*

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## **AGENDA ITEM 14**

### **DISCUSSION AND CONSIDERATION OF ADDING TITLE 16, CCR SECTION 4171, NOTIFICATION TO CONSUMERS.**

The proposed text is attached for review.

# CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

## PROPOSED AMENDED REGULATORY LANGUAGE Title 16, Division 39, California Code of Regulations

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

Add section 4171 to Article 8 of Division 39 of Title 16 of the California Code of Regulations to read as follows:

### § 4171. Notice to Consumers.

(a) An occupational therapy practitioner shall provide notice to each patient or client of his or her name, license type, and that the license is issued and regulated by the board.

(b) A licensee may disclose his or her name and license type by wearing a name tag in at least 18-point type, or by prominently posting a copy of his or her license in the practice area or office where he or she works.

(c) A licensee may disclose that his or her license is issued and regulated by the board by any of the following methods:

(1) Including on a name tag, if worn consistent with subsection (b), in at least 18-point type the words "California Board of Occupational Therapy."

(2) Verbally at the time that services are requested, and each time services are rendered.

(3) On a business card identifying the person as a licensee of the California Board of Occupational Therapy that is provided to the patient or client at the time of initial evaluation.

(4) Written notice in a statement that includes the following information, either given to a patient or client in connection with services provided, or posted in an area visible to patients or clients on the premises where the licensee provides occupational therapy services:

### NOTICE TO CONSUMERS

Occupational therapists and occupational therapy assistants

are licensed and regulated by the

California Board of Occupational Therapy

(916) 263-2294

[www.bot.ca.gov](http://www.bot.ca.gov)

(A) If given to a patient or client, the notice shall be in at least 14-point type in Arial font, provided at the time of evaluation.

(B) If posted where services are provided, the notice shall be in at least 48-point type in Arial font.

Authority cited: Section 2570.20, Business and Professions Code; Reference: Sections 138 and 680, Business and Professions Code.



## **AGENDA ITEM 15**

### **DISCUSSION AND CONSIDERATION OF AMENDING TITLE 16, CCR SECTION 4180, DEFINITIONS, AND ADDING SECTION 4187, SUPERVISION PLAN FOR AN OCCUPATIONAL THERAPIST.**

The following are attached for review:

- Proposed Text
- The American Occupational Therapy Association's document: *Standards of Practice for Occupational Therapy (2005)*

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

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

**Article 9. Supervision of Occupational Therapy Assistants, Limited Permit Holders,  
Students, and Aides**

**§ 4180. Definitions**

In addition to the definitions found in Business and Professions Code sections 2570.2 and 2570.3 the following terms are used and defined herein:

- (a) "Client related tasks" means tasks performed as part of occupational therapy services rendered directly to the client.
- (b) "Level I student" means an occupational therapy or occupational therapy assistant student participating in activities designed to introduce him or her to fieldwork experiences and develop an understanding of the needs of clients.
- (c) "Level II student" means an occupational therapy or occupational therapy assistant student participating in delivering occupational therapy services to clients with the goal of developing competent, entry-level practitioners.
- (d) "Level II fieldwork educator" means a licensed occupational therapist or occupational therapy assistant who has a minimum of one year of practice experience following issuance of a license or other authorization to practice issued by another state regulatory board.
- (e) "Non-client related tasks" means clerical and secretarial activities; transportation of patients/clients; preparation or maintenance of treatment equipment and work area; taking care of patient/client personal needs during treatments; and assisting in the construction of adaptive equipment and splints.
- (f) "Periodic" means at least once every 30 days.
- (g) "Clinical supervision," as used in this article, refers to those activities included in the American Occupational Therapy Association's document entitled "Standards of Practice for Occupational Therapy" (Adopted 2005), incorporated herein by reference.

Note: Authority cited: Sections 2570.13 and 2570.20, Business and Professions Code.  
Reference: Sections 2570.2, 2570.3, 2570.4, 2570.5, 2570.6, and 2570.13, Business and Professions Code.

**§ 4181. Supervision Parameters**

- (a) Appropriate supervision of an occupational therapy assistant includes, at a minimum:
  - (1) The weekly review of the occupational therapy plan and implementation and periodic onsite review by the supervising occupational therapist. The weekly review shall encompass all aspects of occupational therapy services and be completed by telecommunication or onsite.
  - (2) Documentation of the supervision, which shall include either documentation of direct client care by the supervising occupational therapist, documentation of review of the client's medical and/or treatment record and the occupational therapy services provided by the occupational therapy assistant, or co-signature of the occupational therapy assistant's documentation.
  - (3) The supervising occupational therapist shall be readily available in person or by telecommunication to the occupational therapy assistant at all times while the occupational therapy assistant is providing occupational therapy services.

- (4) The supervising occupational therapist shall provide periodic on-site supervision and observation of client care rendered by the occupational therapy assistant.
- (b) The supervising occupational therapist shall at all times be responsible for all occupational therapy services provided by an occupational therapy assistant, a limited permit holder, a student or an aide. The supervising occupational therapist has continuing responsibility to follow the progress of each client, provide direct care to the client, and assure that the occupational therapy assistant, limited permit holder, student or aide do not function autonomously.
- (c) The level of supervision for all personnel is determined by the supervising occupational therapist whose responsibility it is to ensure that the amount, degree, and pattern of supervision are consistent with the knowledge, skill and ability of the person being supervised.
- (d) Occupational therapy assistants may supervise:
- (1) Level I occupational therapy students;
  - (2) Level I and Level II occupational therapy assistant students; and
  - (3) Aides providing non-client related tasks.
- (e) The supervising occupational therapist shall determine that the occupational therapy practitioner possesses a current license, certificate or permit to practice occupational therapy prior to allowing the person to provide occupational therapy services.

Note: Authority cited: Sections 2570.13 and 2570.20, Business and Professions Code.  
Reference: Sections 2570.2, 2570.3, 2570.4, 2570.5, 2570.6, and 2570.13, Business and Professions Code.

#### § 4182. Treatments Performed by Occupational Therapy Assistants

- (a) The supervising occupational therapist shall determine the occupational therapy treatments the occupational therapy assistant may perform. In making this determination, the supervising occupational therapist shall consider the following:
- (1) the clinical complexity of the patient/client;
  - (2) skill level of the occupational therapy assistant in the treatment technique; and
  - (3) whether continual reassessment of the patient/client status is needed during treatment.
- This rule shall not preclude the occupational therapy assistant from responding to acute changes in the client's condition that warrant immediate action. The occupational therapy assistant shall inform the supervising occupational therapist immediately of the acute changes in the patient's/client's condition and the action taken.
- (b) The supervising occupational therapist shall assume responsibility for the following activities regardless of the setting in which the services are provided:
- (1) Interpretation of referrals or prescriptions for occupational therapy services.
  - (2) Interpretation and analysis for evaluation purposes.
    - (A) The occupational therapy assistant may contribute to the evaluation process by gathering data, administering standardized tests and reporting observations. The occupational therapy assistant may not evaluate independently or initiate treatment before the supervising occupational therapist performs an assessment/evaluation.
  - (3) Development, interpretation, implementation, and modifications of the treatment plan and the discharge plan.
    - (A) The supervising occupational therapist shall be responsible for delegating the appropriate interventions to the occupational therapy assistant.
    - (B) The occupational therapy assistant may contribute to the preparation, implementation and documentation of the treatment and discharge summary.

Note: Authority: Sections 2570.13 and 2570.20, Business and Professions Code. Reference: Sections 2570.2, 2570.3, 2570.4, 2570.5, 2570.6, and 2570.13, Business and Professions Code.

§ 4183. Treatments Performed by Occupational Therapy Limited Permit Holders and Students

§ 4184. Delegation of Tasks to Aides

§ 4187. Supervision Plan for an Occupational Therapist

An occupational therapy assistant in an administrative role related to the provision of occupational therapy services shall only provide administrative services pursuant to a documented plan for the clinical supervision of any occupational therapy practitioner providing those occupational therapy services. This document shall include provisions for ongoing and formal evaluation of clinical performance, and must be available at time of hire, contract negotiation, and upon request.

Note: Authority: Sections 2570.13 and 2570.20, Business and Professions Code. Reference: Sections 2570.2, 2570.4 and 2570.13, Business and Professions Code.

DRAFT

## STANDARDS OF PRACTICE FOR OCCUPATIONAL THERAPY

### **Preface**

This document defines minimum standards for the practice of occupational therapy. The *Standards of Practice for Occupational Therapy* are requirements for occupational therapists and occupational therapy assistants for the delivery of occupational therapy services. *The Reference Manual of Official Documents* contains documents that clarify and support occupational therapy practice (American Occupational Therapy Association [AOTA, 2004]). These documents are reviewed and updated on an ongoing basis for their applicability.

### **Education, Examination, and Licensure Requirements**

All occupational therapists and occupational therapy assistants must practice under federal and state law.

To practice as an occupational therapist, the individual trained in the United States

- has graduated from an occupational therapy program accredited by the Accreditation Council for Occupational Therapy Education (ACOTE®) or predecessor organizations;
- has successfully completed a period of supervised fieldwork experience required by the recognized educational institution where the applicant met the academic requirements of an educational program for occupational therapists that is accredited by ACOTE® or predecessor organizations;
- has passed a nationally recognized entry-level examination for occupational therapists; and
- fulfills state requirements for licensure, certification, or registration.

To practice as an occupational therapy assistant, the individual trained in the United States

- has graduated from an associate- or certificate-level occupational therapy assistant program accredited by ACOTE® or predecessor organizations;
- has successfully completed a period of supervised fieldwork experience required by the recognized educational institution where the applicant met the academic requirements of an educational program for occupational therapy assistants that is accredited by ACOTE® or predecessor organizations;
- has passed a nationally recognized entry-level examination for occupational therapy assistants; and
- fulfills state requirements for licensure, certification, or registration.

### **Definitions**

**Assessment.** Specific tools or instruments that are used during the evaluation process.

**Client.** A person, group, program, organization, or community for whom the occupational therapy practitioner is providing services.

**Evaluation.** The process of obtaining and interpreting data necessary for intervention. This includes planning for and documenting the evaluation process and results.

**Screening.** Obtaining and reviewing data relevant to a potential client to determine the need for further

evaluation and intervention.

### **Standard I: Professional Standing and Responsibility**

1. An occupational therapy practitioner (occupational therapist or occupational therapy assistant) delivers occupational therapy services that reflect the philosophical base of occupational therapy and are consistent with the established principles and concepts of theory and practice.
2. An occupational therapy practitioner is knowledgeable about and delivers occupational therapy services in accordance with AOTA standards, policies, and guidelines, and state and federal requirements relevant to practice and service delivery.
3. An occupational therapy practitioner maintains current licensure, registration, or certification as required by law or regulation.
4. An occupational therapy practitioner abides by the AOTA *Occupational Therapy Code of Ethics* (AOTA, 2000).
5. An occupational therapy practitioner abides by the AOTA *Standards for Continuing Competence* (AOTA, 1999) by establishing, maintaining, and updating professional performance, knowledge, and skills.
6. An occupational therapist is responsible for all aspects of occupational therapy service delivery and is accountable for the safety and effectiveness of the occupational therapy service delivery process.
7. An occupational therapy assistant is responsible for providing safe and effective occupational therapy services under the supervision of and in partnership with the occupational therapist and in accordance with laws or regulations and AOTA documents.
8. An occupational therapy practitioner maintains current knowledge of legislative, political, social, cultural, and reimbursement issues that affect clients and the practice of occupational therapy.
9. An occupational therapy practitioner is knowledgeable about evidence-based research and applies it ethically and appropriately to the occupational therapy process.

### **Standard II: Screening, Evaluation, and Re-evaluation**

1. An occupational therapist accepts and responds to referrals in compliance with state laws or other regulatory requirements.
2. An occupational therapist, in collaboration with the client, evaluates the client's ability to participate in daily life activities by considering the client's capacities, the activities, and the environments in which these activities occur.
3. An occupational therapist initiates and directs the screening, evaluation, and re-evaluation process and analyzes and interprets the data in accordance with law, regulatory requirements, and AOTA documents.

4. An occupational therapy assistant contributes to the screening, evaluation, and re-evaluation process by implementing delegated assessments and by providing verbal and written reports of observations and client capacities to the occupational therapist in accordance with law, regulatory requirements, and AOTA documents.
5. An occupational therapy practitioner follows defined protocols when standardized assessments are used.
6. An occupational therapist completes and documents occupational therapy evaluation results. An occupational therapy assistant contributes to the documentation of evaluation results. An occupational therapy practitioner abides by the time frames, formats, and standards established by practice settings, government agencies, external accreditation programs, payers, and AOTA documents.
7. An occupational therapy practitioner communicates screening, evaluation, and re-evaluation results within the boundaries of client confidentiality to the appropriate person, group, or organization.
8. An occupational therapist recommends additional consultations or refers clients to appropriate resources when the needs of the client can best be served by the expertise of other professionals or services.
9. An occupational therapy practitioner educates current and potential referral sources about the scope of occupational therapy services and the process of initiating occupational therapy services.

### **Standard III: Intervention**

1. An occupational therapist has overall responsibility for the development, documentation, and implementation of the occupational therapy intervention based on the evaluation, client goals, current best evidence, and clinical reasoning.
2. An occupational therapist ensures that the intervention plan is documented within the time frames, formats, and standards established by the practice settings, agencies, external accreditation programs, and payers.
3. An occupational therapy assistant selects, implements, and makes modifications to therapeutic activities and interventions that are consistent with the occupational therapy assistant's demonstrated competency and delegated responsibilities, the intervention plan, and requirements of the practice setting.
4. An occupational therapy practitioner reviews the intervention plan with the client and appropriate others regarding the rationale, safety issues, and relative benefits and risks of the planned interventions.
5. An occupational therapist modifies the intervention plan throughout the intervention process and documents changes in the client's needs, goals, and performance.

6. An occupational therapy assistant contributes to the modification of the intervention plan by exchanging information with and providing documentation to the occupational therapist about the client's responses to and communications throughout the intervention.
7. An occupational therapy practitioner documents the occupational therapy services provided within the time frames, formats, and standards established by the practice settings, agencies, external accreditation programs, payers, and AOTA documents.

#### **Standard IV: Outcomes**

1. An occupational therapist is responsible for selecting, measuring, documenting, and interpreting expected or achieved outcomes that are related to the client's ability to engage in occupations.
2. An occupational therapist is responsible for documenting changes in the client's performance and capacities and for discontinuing services when the client has achieved identified goals, reached maximum benefit, or does not desire to continue services.
3. An occupational therapist prepares and implements a discontinuation plan or transition plan based on the client's needs, goals, performance, and appropriate follow-up resources.
4. An occupational therapy assistant contributes to the discontinuation or transition plan by providing information and documentation to the supervising occupational therapist related to the client's needs, goals, performance, and appropriate follow-up resources.
5. An occupational therapy practitioner facilitates the transition process in collaboration with the client, family members, significant others, team, and community resources and individuals, when appropriate.
6. An occupational therapist is responsible for evaluating the safety and effectiveness of the occupational therapy processes and interventions within the practice setting.
7. An occupational therapy assistant contributes to evaluating the safety and effectiveness of the occupational therapy processes and interventions within the practice setting.

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for

The Commission on Practice

Sara Jane Brayman, PhD, OTR/L, FAOTA, Chairperson

Adopted by the Representative Assembly 2005C218

**NOTE:** This document replaces the 1998 *Standards of Practice for Occupational Therapy*. These standards are intended as recommended guidelines to assist occupational therapy practitioners in the provision of occupational therapy services. These standards serve as a minimum standard for occupational therapy practice and are applicable to all individual populations and the programs in which these individuals are served.

Previously published and copyrighted in 2005 by the American Occupational Therapy Association in the *American Journal of Occupational Therapy*, 59, 663–665.

## **AGENDA ITEM 16**

**DISCUSSION AND CONSIDERATION OF AMENDING TITLE 16, DIVISION 39, CCR, TO AMEND SECTION 4123 TO ESTABLISH REQUIREMENTS FOR A RETIRED LICENSE AND RENUMBER SECTION 4123 TO SECTION 4125.**

The proposed text is attached for review.

# CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

## PROPOSED AMENDED REGULATORY LANGUAGE Title 16, Division 39, California Code of Regulations

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

Amend section 4123 and renumber section 4123 to 4125, Article 3.5 of Division 39 of Title 16 of the California Code of Regulations to read as follows:

### Article 3. License, ~~Certificate, Limited Permit~~, Inactive Status, Retired Status

#### Section 4123. ~~Limited Permit~~—Retired Status.

A holder of an occupational therapy or occupational therapy assistant license that is eligible to apply for a retired license pursuant to section 2570.17 of the Code, may apply for a retired license by completing an application provided by the Board containing the following: name, address, email address, phone number, license number, and the information required by section 2570.17 of the Code, accompanied by the fee required by section 2570.17(a) of the Code.

Authority cited: Sections 462, 700, 701, 707  
Professions Code; Reference: Sections 2  
Professions Code.

10, and 2570.11, Business and  
70.17, Business and

### Article 3.5 Limited Permits

16

#### Section 4125. Limited Permits

(a) To qualify for a limited permit, a person must have applied to the National Board for Certification in Occupational Therapy (NBCOT) to take the licensing examination within four (4) months of completing the education and fieldwork requirements for licensure or certification.

(1) Upon receipt from NBCOT, the applicant must forward to the Board a copy of the Authorization to Test (ATT) letter.

(2) A limited permit shall only be valid for three (3) months from the date of issuance by the Board, upon receipt of a failing result, or two (2) weeks following the expiration of the applicants' eligibility to test period, whichever occurs first.

(3) The limited permit holder must immediately notify the Board of the results of the examination.

(4) The limited permit holder must provide to the Board the name, address and telephone number of his or her employer and the name and license number of his or her supervising occupational therapist (OT). Any change of employer or supervising OT must be provided to the Board, in writing, within 10 days of the change.

(b) The limited permit will be cancelled, and the fee forfeited, upon notification to the Board or the limited permit holder by the test administrator that the holder failed to pass the first examination.

## **AGENDA ITEM 17**

### **REGULATION UPDATE**

The Regulations Update Report is attached for review.

## REGULATION UPDATE REPORT

Rulemaking File Subject	Sec.	Status	Date to OAL for publishing	Close of public comment period	Date Pkg Sent to DCA	Date Pkg Rtr'd from DCA	Final Pkg Due to OAL	Actual Submit Date To OAL	Date language goes into effect
Definitions Substantial Relationship Criteria	4100	Published May 1, 2009. Second Modified Text to be adopted at December 2009 Board meeting.	04/21/09	06/15/09	unavailable	03-08-10	04/30/10	03/8/10	04/06/10
Renewal of License Certificate	4120	Published May 1, 2009, and adopted June 18, 2009.	04/21/09	06/15/09	unavailable	unavailable	04/30/10	01/11/10	03/26/10
Definitions	4180	Published May 1, 2009; adopted June 18, 2009.	04/21/09	06/15/09	01/21/10	06/03/10	04/30/10	06/3/10	07/3/10
Minimum Standards for Infection Control	4175	Published September 4, 2009; adopted October 26, 2009.	08/25/09	10/19/09	01/21/10	05/04/10	09/03/10	05/3/10	06/3/10
Advanced Practices	4150, et al	Draft language approved at October 2009 Board meeting. Hearing held February 11, 2010. 15-day Notice issued May 24, 2010.	12/15/09	02/08/10 06/07/10					
Limited Permit and Representation	4123, 4125	Draft language approved at December 2009 Board meeting. Hearing held February 11, 2010. 15-day Notice issued May 24, 2010.	12/15/09	02/08/10 06/07/10			12/24/10		
Citations	4141, 4144, 4145	Draft language to be presented for consideration at July 2010 Board meeting.	06/01/10	07/26/10			05/03/11		
Disciplinary Guidelines & Required Actions Against Registered Sex Offenders	4147 4148	Draft language to be presented for consideration at July 2010 Board meeting.	06/01/10	07/26/10			05/31/11		
Ethical Standards of Practice	4170	Draft language to be presented for consideration at July 2010 Board meeting							