AGENDA ITEM 8

CONSIDERATION AND ADOPTION OF PROPOSED REGULATORY LANGUAGE TO AMEND CCR SECTIONS 4180 AND 4184 AND ESTABLISH SECTION 4187.

The following are attached for review:

- Background paper.
- Original proposed text.
- Initial Statement of Reasons.
- November 28, 2011, letter from AOTA re: proposed text.
- Sections 72415 and 72417, Title 22, CCR.
- Proposed modified text.
- January 3, 2012, letter from AOTA re: modified text.
- December 16, 2011, email from licensee re: modified text.
- December 16, 2011, email from licensee re: modified text.

BACKGROUND PAPER REGARDING OCCUPATIONAL THERAPY ASSISTANTS WORKING IN MANAGEMENT, LEADERSHIP AND OWNERSHIP ROLES

The genesis of this matter began when Board staff posed questions on ethical implications deriving from occupational therapy assistants owning and operating his/her own rehabilitation business or serving in another leadership or management capacity. Staff was concerned because it appeared the roles and duties between OTs and OTAs would be subverted or undermined. Board staff also became aware that OTAs were using the title and/or working in the capacity as Rehabilitation Directors in health care facilities.

In its meeting on March 19, 2009, the Board discussed OTAs serving in leadership, management, and ownership roles. Research by staff found that the Physical Therapy Board (PTB) did not allow Physical Therapy Assistants to function in these roles. Comments derived from the Board Meeting Minutes are summarized below:

- Ms. Evert indicated that an OTA owning and operating a rehabilitation business should exercise caution not to exceed their scope of practice (i.e. an OTA owner cannot subvert or undermine the clinical role and duties between an OT and OTA). Ms. Evert reported she did not wish to establish a policy similar to the PTB.

- Discussion of the mechanics of an OTA functioning in management, leadership, and ownership roles raised many questions such as:
    1. Does the OTA manager/director provide clinical services or do they purely manage?
    2. If the OTA manager/director is providing clinical services, does he/she receive appropriate supervision?
    3. Ethically, is it appropriate to receive supervision from a subordinate (OTA Manager overseeing an OT)?
    4. If functioning solely in an administrative role, does the OTA manager/director have a role in directing patient care or specifying the duration and/or frequency of treatment?
    5. What is the role of an OTA manager/director in developing or assessing the clinical skills of an OT working under their management/direction?

Board staff was directed to conduct more research on the matter and bring it back to the Board.

In its meeting on October 26, 2009, the Board resumed discussion on the issue of OTAs serving in leadership, management, and ownership roles. Christine Weitlisbach summarized that it would appear there are two areas of primary concern:

- Potential conflicts of interest in the delivery of services
- Assistants assessing the performance of a therapist in a management role

Two occupational therapy educators from the Occupational Therapy Assistant Program at Sacramento City College spoke to the Board to advocate for occupational therapy assistants serving in leadership capacities. Both encouraged the Board to work with and consult professional associations to define roles and develop guidelines regarding assistants in leadership roles including emerging and nontraditional practice areas. Bobbi Jean Tanberg, the Board's occupational therapy assistant member, was unable to attend the meeting. It was decided to establish an Ad-Hoc Committee to research the matter further that was chaired by Ms. Tanberg.

In January and February 2010, two Ad-Hoc Committee Meetings took place. The Committee developed and proposed regulatory language for the Board to pursue.

The Board subsequently approved language that was developed by the Ad-Hoc Committee. The proposed regulatory language was noticed on October 14, 2011, with the 45-day public comment period ending on November 28, 2011. One public comment from the American Occupational Therapy Association was received.

At its December 1, 2011, meeting, the Board made modifications to the proposed language and delegated to the Executive Officer to make minor technical edits barring any negative comments. The modified language was noticed on December 19, 2011, with the 15-day comment period ending on January 3, 2012. The Board received three public comments that are contained in your meeting packets, bringing you current with the matter at hand.

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.
<u>(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 2010), incorporated herein by reference.</u>

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.

§ 4184. Delegation of Tasks to Aides.

(a) The primary function of an aide in an occupational therapy setting is to perform routine tasks related to occupational therapy services. Non-client related tasks may be delegated to an aide when the supervising occupational therapy practitioner has determined that the person has been appropriately trained and has supportive documentation for the performance of the services.
(b) Client related tasks that may be delegated to an aide include specifically selected routine aspects of an intervention session. In addition to the requirements of Code section 2570.2, subdivisions (a) and (b), the following factors must be present when an occupational therapist delegates a selected aspect of an intervention to an aide:

(1) The outcome anticipated for the aspects of the intervention session being delegated is predictable.
(2) The situation of the client and the environment is stable and will not require that judgment or adaptations be made by the aide.
(3) The client has demonstrated previous performance ability in executing the task.
(4) The aide has demonstrated competence in the task, routine and process.
(c) The supervising occupational therapist shall not delegate to an aide the following tasks:
(1) Performance of occupational therapy evaluative procedures;
(2) Initiation, planning, adjustment, or modification of treatment procedures.
(3) Acting on behalf of the occupational therapist in any matter related to occupational therapy treatment that requires decision making.
~~(d) All documented client related services shall be reviewed and cosigned by the supervising occupational therapist.~~

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

§ 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.

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulation: Regulations pertaining to the Supervision of Occupational Therapy Assistants, Limited Permit Holders, Students, and Aides

Sections Affected: Title 16, Division 39, Sections 4180, 4184, and 4187

Introduction:

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

The proposed regulations are intended to establish, clarify and implement practice and supervision standards relating to the delivery of occupational therapy services.

Specific Purpose of each adoption, amendment or repeal:

Amend Section 4180 (Definitions)

The proposed regulation adds a new definition for "Clinical Supervision" by incorporating by reference the American Occupational Therapy Association's (AOTA's) "*Standards of Practice for Occupational Therapy* (adopted 2010)".

Although the *Standards of Practice for Occupational Therapy* does not specifically provide a definition for "clinical supervision" it clarifies practice standards and defines the roles and responsibilities between occupational therapists and occupational therapy assistants.

The *Standards of Practice for Occupational Therapy* also describes and defines the practice of occupational therapy. It provides education, examination, and licensure requirements that are fundamental to the profession and consistent with California's licensure requirements. The *Standards of Practice for Occupational Therapy* also contains other professional responsibilities and provides definitions for terms used in the document pertaining to: Activity, Assessment, Client, Evaluation, Intervention, Occupation, Outcomes, Re-evaluation, and Screening.

The *Standards of Practice for Occupational Therapy* clarifies, enhances, and supports supervision requirements already established by the Board by breaking down the roles and responsibilities in four areas pertaining to the delivery of services. The four areas and a summary of the duties and responsibilities for practitioners follows:

(1) Professional Standing and Responsibility
This section clarifies that the delivery of occupational therapy services should reflect the philosophical base of occupational therapy and be consistent with established principals and concepts of theory. It specifies that an occupational therapy practitioner must be knowledgeable about the standards, policies, and guidelines of federal, state, and the profession pertaining to the delivery of services. It specifies that occupational therapy practitioners maintain current licensure as required by law, and specifies that occupational therapy practitioners shall abide by the Occupational Therapy Code of Ethics (AOTA 2005). It specifies occupational therapy practitioners are responsible for maintaining and updating their knowledge and skills and are responsible and accountable for the safety and effectiveness of delivered services.

This section specifies that occupational therapy assistants are responsible for providing safe and effective services under the supervision of an occupational therapist. It specifies occupational therapy practitioners be knowledgeable about legislative, political, social, cultural, societal, and reimbursement issues affecting occupational therapy practice. It specifies occupational therapy practitioners be knowledgeable about evidence-based research and apply it ethically and with a best practices approach. It specifies occupational therapy practitioners respect a client's sociocultural background and provide client-centered and family-centered occupational therapy services.

(2) Screening, Evaluation, and Re-evaluation
This section clarifies that an occupational therapist is responsible for all aspects of the screening, evaluation, and re-evaluation processes. It specifies an occupational therapist accepts and responds to referrals in compliance with federal and state laws, and other regulatory and payer requirements. It specifies that an occupational therapist is to collaborate with the client in the screening, evaluation, and re-evaluation processes. It specifies that an occupational therapist is responsible for initiating and directing the screening, evaluation, and re-evaluation processes. It specifies that an occupational therapy assistant may contribute to the screening, evaluation, and re-evaluation processes. It specifies occupational therapy practitioners use current assessments and assessment procedures and follows protocols during the screening, evaluation, and re-evaluation process. It specifies occupational therapy practitioners document the screening, evaluation, and re-evaluation in accordance with federal and state laws, and other regulatory and payer entities. It specifies occupational therapy practitioners respect a client's confidentiality and privacy. It specifies that occupational therapy practitioners shall make appropriate referrals based on a client's needs. It specifies that occupational therapy practitioners shall educate current and potential referral sources about occupational therapy services and processes for initiating services.

(3) Intervention
This section requires an occupational therapist be responsible for the development, documentation, and implementation of therapeutic intervention based on the evaluation, client goals, best available evidence, and professional and clinical reasoning; specifies an occupational therapist is responsible for ensuring the intervention plan is documented in accordance with federal and state laws, and other regulatory and payer

entity requirements. It specifies an occupational therapy practitioners collaborate with clients on developing and implementing an intervention plan and coordinate the intervention plan with other professionals when appropriate. It specifies occupational therapy practitioners use professional and clinical reasoning to select appropriate types of interventions in the delivery of services.

(4) Outcome.
This section clarifies that an occupational therapist is responsible for selecting, measuring, documenting, and interpreting expected or achieved outcomes. It specifies an occupational therapist is responsible for documenting changes in the client's performance and capabilities and for transitioning the client to other types or intensity of service or discontinuing services when the client has achieved identified goals, reached maximum benefit, or does not desire to continue services. It specifies an occupational therapist prepares and implements, and an occupational therapy assistant contributes to, a transition or discontinuation plan based on the client's needs, goals, performance, and appropriate follow up resources. It specifies an occupational therapy practitioner shall facilitate the transition or discharge process by collaborating with the client, family members, significant others, and other professionals when appropriate. It specifies an occupational therapist is responsible for, and an occupational therapy assistant contributes to, evaluating the safety of occupational therapy processes and interventions.

Factual Basis/Rationale:
Adoption of the proposed regulations would enhance the Board's ability to administer, coordinate, and enforce professional standards for occupational therapy. Incorporation of AOTA's Standards for Occupational Therapy Practice is designed to establish and clarify additional detail surrounding the roles, duties, functions, and responsibilities of practitioners providing services to the public. Incorporation of AOTA's Standards for Occupational Therapy Practice would align California practice standards with national standards. Incorporation of the AOTA's Standards for Occupational Therapy Practice would enhance the Board's ability to take disciplinary action against practitioners for deviations in practice standards. Incorporation of AOTA's Standards for Occupational Therapy Practice enhance and clarify existing similar regulations by providing specific examples and situations that occur in the delivery of occupational therapy services. The proposed regulations would serve to protect the public by ensuring occupational practitioners act in accordance with, and within, their scope of practice.

Delete Section 4184(d) (Delegation of Tasks to Aides)

The proposed regulation would delete current regulatory language that allows aides to document client related services.

Factual Basis/Rationale:
The regulatory language should be deleted as it conflicts with Business and Professions Code (BPC) section 2570.2(a) which states in pertinent part "The occupational therapist or occupational therapy assistant is responsible for documenting the client's record concerning the delegated client-related tasks performed by the aide."

When the Board first adopted the current regulatory language that allows an aide to document a client record it was done so essentially for the convenience of the occupational therapist. It was believed that that since the supervising occupational therapist was required to have the aide providing services directly in their line of sight, the therapist could verbally direct the aide what to document in the record (the aide was essentially transcribing the therapist's own entry) and the therapist would then co-sign the record.

Deletion of the regulatory language will eliminate any confusion regarding an aide's ability to document a client record. It is the intent of the Board that, consistent with BPC section 2570.2(a), only licensees (an occupational therapist or occupational therapy assistant) shall be responsible for documenting a client record.

Add Section 4187 (Supervision Plan for Occupational Therapist)

The proposed language requires that a documented plan be established for the supervision of clinical performance of an occupational therapist who is employed in facilities, settings, or by businesses that are owned by or have an occupational therapy assistant functioning in an administrative, management, leadership, or directive role in the facility or business.

Factual Basis/Rationale:
The Board is concerned with ethical implications that derive from situations where an owner, administrator, or director, of a facility or business who is an occupational therapy assistant evaluates the clinical performance of an occupational therapist(s), who is under their administrative supervision. The purpose of this regulation is to make certain that it would be improper for an occupational therapy assistant to evaluate the clinical performance of an occupational therapist. Some examples of implementing the proposed regulations are as follows:

Facility or business owned by an occupational therapist with one occupational therapist as an employee or contractor would require that the occupational therapy assistant owner/operator hire or contract with another occupational therapist to evaluate the performance of the occupational therapist employed or contracted to provide services for the facility/business.

Facility or business that has an occupational therapy assistant functioning as a rehabilitation director that employs or contracts with two or more occupational therapists to provide services would require that the documented plan specify the occupational therapist that is designated to perform the clinical evaluation of occupational therapist(s) employed or contracted at the facility.

BUSINESS IMPACT
The proposed amendment to Section 4180 would have minimal cost impact to businesses in that it sets forth standards for practice for occupational therapy practitioners. Any practitioner that violates these standards potentially could be disciplined by the Board resulting in revocation of the license thereby resulting in loss of income to the licensee.

The proposed deletion to Section 4184 would have no cost impact to an employer due to the fact that current law requires that an occupational therapist must be present when an aide provides therapeutic services to a client. The proposed regulations simply require that the occupational therapist document the client's record.

Adoption of proposed Section 4187 may have a cost impact to businesses or facilities that provide occupational therapy services that are owned by or whose rehabilitation services are supervised, managed, or administered by an occupational therapy assistant. The proposed regulation would require that another occupational therapist be employed or contracted to evaluate the clinical performance of the occupational therapist that is employed at the facility that is owned by an occupational therapy assistant or facility that managed or administered by an occupational therapy assistant. In cases where a business or facility employs more than two occupational therapists one of the therapists could be designated to provide the clinical evaluations.

UNDERLYING DATA

We relied on the American Occupational Therapy Association's documents entitled "Standards of Practice for Occupational Therapy" (adopted 2010) and "Occupational Therapy Code of Ethics and Ethics Standards" (adopted 2010). These documents are available upon request.

SPECIFIED TECHNOLOGIES OR EQUIPMENT
This regulation does not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES
No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons and businesses than the proposed regulation.

AOTA® The American Occupational Therapy Association, Inc.

Occupational Therapy: Living Life To Its Fullest®

November 28, 2011

VIA EMAIL to cbot@dca.ca.gov
Heather Martin
California Board of Occupational Therapy
2005 Evergreen Street, Suite 2050
Sacramento, CA 95815

Re: TITLE 16, DIVISION 39, §§ 4180, 4184, AND 4187 PROPOSED SUPERVISION PROVISIONS

Dear Ms. Martin:

I am writing on behalf of the American Occupational Therapy Association, Inc. (AOTA), which represents the professional interests of 140,000 occupational therapists and occupational therapy assistants throughout the country, including more than 3,200 occupational therapists, occupational therapy assistants and occupational therapy students in the state of California. Thank you for the opportunity to comment on this proposed regulation.

AOTA recognizes the Board's need to provide guidance to occupational therapy assistants who function in an administrative, management, or directive role with occupational therapists. However, the guidelines provided in the supervision provisions published by the Board on October 18, 2011 do not adequately provide for the variety of roles the occupational therapist and occupational therapy assistants may have.

I. Reference to *AOTA's Standards of Practice for Occupational Therapy*

AOTA's first concern is the Board's reference to AOTA's *Standards for Practice for Occupational Therapy* as a model for "clinical supervision." AOTA does not define "clinical supervision" in this document, and AOTA's *Standards for Practice for Occupational Therapy* are not intended to be interpreted to define the type of supervision addressed in the proposal.

The initial statement of reasons for proposed regulations Title 16, Division 39, §§ 4180, 4184, and 4187 states, "The proposed regulations are intended to establish, clarify and implement practice and supervision standards relating to the delivery of occupational therapy services." AOTA believes that the intent of the proposed rule is to clarify additional details surrounding the roles, duties, functions, and responsibilities of practitioners providing services to the public; however, the proposed rule implements a supervision plan for a situation that is not reflected in the AOTA's *Standards of Practice for Occupational Therapy.*

Further, the Factual Basis/Rationale in the Initial Statement of Reasons states that:

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Bethesda, MD 20814-1220
301-652-2682
301-652-7711 fax
800-377-8555 TDD
www.aota.org

> Incorporation of AOTA's Standards of Occupational Therapy Practice would align California practice standards with national standards....Incorporation of AOTA's Standards of Occupational Therapy Practice enhance and clarify existing similar regulations by providing specific examples and situation that occur in the delivery of occupational therapy services.

AOTA asserts that the AOTA's *Standards of Practice for Occupational Therapy* document does not address the situations "where an owner, administrator, or director, of a facility or business who is an occupational therapy assistant evaluates the clinical performance of an occupational therapist(s), who is under their administrative supervision" and therefore the document should not be used to suggest that adoption of the document as envisioned in the proposed regulation would align "California practice standards with national standards"

Therefore, AOTA would like the reference to this document as a description of "clinical supervision" to be removed from the proposed rule, and suggests that the Board refer to AOTA's *Guidelines for Supervision, Roles, and Responsibilities During the Delivery of Occupational Therapy* (attached) as a reference for supervision guidelines, but the following concerns are also relevant.

II. Supervision Plan for an Occupational Therapist

AOTA is also concerned with the language in §4187 Supervision Plan for an Occupational Therapist. AOTA believes that occupational therapists are autonomous practitioners. AOTA's *Guidelines for Supervision, Roles, and Responsibilities During the Delivery of Occupational Therapy Services* states:

> Based on their education and training, occupational therapists, after initial certification, are autonomous practitioners who are able to deliver occupational therapy services independently. Occupational therapists are responsible for all aspects of occupational therapy service delivery and are accountable for the safety and effectiveness of the occupational therapy service delivery process. Occupational therapists are encouraged to seek supervision and mentoring to develop best practice approaches and promote professional growth.

A supervision plan that considers these issues is therefore unnecessary since occupational therapists may practice without supervision; further, the occupational therapist is responsible for the occupational therapy service delivery process and will be held accountable for the safety and effectiveness of the service.

In no way is the occupational therapy assistant, regardless of whether the occupational therapy assistant is in a leadership role, responsible for the aspects of occupational therapy delivery. The occupational therapy assistant may be responsible for administrative issues such as hours, timeliness, and work load, but these functions do not cover the validity and appropriateness of occupational therapy. Requiring occupational therapy assistants who function in administrative, management, or directive roles to hire or contract with an additional occupational therapist to

evaluate the performance of the occupational therapists acting under the direction of an occupational therapy assistant is therefore unnecessary.

In addition to being unnecessary, AOTA is concerned that this requirement may limit the advancement of occupational therapy assistants to leadership positions since facilities will be forced to also hire or contract with an additional occupational therapist to provide "clinical supervision." Further, there is no recognition for a need for a supervision plan if an occupational therapist is practicing under the administrative supervision of any other type of professional such as a physical therapist, physical therapy assistant, speech language pathologist, or an administrative professional that is not a health care practitioner.

III. Business Impact

The Business Impact statement in the Initial Statement of Reasons states:

> Adoption of proposed Section 4187 may have a cost impact to businesses or facilities that provide occupational therapy services that are owned by or whose rehabilitation services are supervised, managed, or administered by the an occupational therapy assistant. The proposed regulation would require that another occupational therapist be employed or contracted to evaluate the clinical performance of the occupational therapist that is employed at the facility that is owned by an occupational therapy assistant or facility that managed or administered by the occupational therapy assistant.

The Business Impact statement in the Notice states:

> The Board does not have data that indicates how many occupational therapy assistants own or operate their own practice. The Board does not have data regarding the number of facilities that employ an occupational therapy assistant in a supervisory, management, or clinical director capacity who oversees the delivery of occupational therapy services provided by the occupational therapists.

AOTA is concerned about the potential negative impact on business and that the Board does not have data to quantify how many businesses and occupational therapy assistants would be impacted by the proposed regulation. As mentioned above, AOTA believes that the regulation may limit opportunities for occupational therapy assistants and may increase costs for businesses. The Business Impact statement does not specify a cost impact to businesses or facilities.

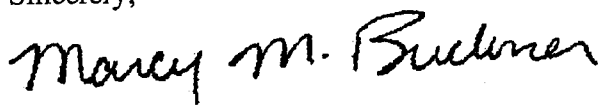
IV. Proposed Alternative

AOTA would like to request that the Board withdraw the regulations, and instead provide guidance to practitioners by posting FAQs on the Board's website regarding occupational therapy assistants who function in administrative or management roles. AOTA's *Guidelines for Supervision, Roles, and Responsibilities During the Delivery of Occupational Therapy Services* may serve as a resource for these FAQs as well as AOTA's *Standards of Practice for*

Occupational Therapy and *Ethics: Occupational Therapy Code of Ethics and Ethical Standards* which are attached as a reference.

AOTA thanks you for your time and consideration regarding this matter. If we can provide further information or resources, please feel free to contact Marcy Buckner at mbuckner@aota.org or (301)-652-6611 ex. 2016.

Sincerely,



Marcy M. Buckner
State Policy Analyst
The American Occupational Therapy Association, Inc.

cc: Shawn Phipps, PhD, MS, OTR/L, FAOTA
President, Occupational Therapy Association of California

Attachments:
AOTA's *Guidelines for Supervision, Roles, and Responsibilities During the Delivery of Occupational Therapy* (2009)
AOTA's *Standards of Practice for Occupational Therapy* (2010)
AOTA's *Ethics: Occupational Therapy Code of Ethics and Ethical Standards* (2010)

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22 CA ADC § 72415

§ 72415. Occupational Therapy Service Unit -Policies and Procedures.

22 CCR § 72415

Cal. Admin. Code tit. 22, § 72415

Barclays Official California Code of Regulations Currentness
Title 22. Social Security
Division 5. Licensing and Certification of Health Facilities, Home Health Agencies, Clinics, and Referral Agencies
Chapter 3. Skilled Nursing Facilities
Article 4. Optional Services (Refs & Annos)
§ 72415. Occupational Therapy Service Unit -Policies and Procedures.

(a) Each occupational therapy service unit shall have written policies and procedures for the management of the occupational therapy service.

(b) The policies and procedures shall be established and implemented by the patient care policy committee in consultation with an occupational therapist.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, Health and Safety Code.

22 CCR § 72415, 22 CA ADC § 72415

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22 CA ADC § 72417

§ 72417. Occupational Therapy Service Unit -Staff.

22 CCR § 72417

Cal. Admin. Code tit. 22, § 72417

Barclays Official California Code of Regulations Currentness
Title 22. Social Security
Division 5. Licensing and Certification of Health Facilities, Home Health Agencies, Clinics, and Referral Agencies
Chapter 3. Skilled Nursing Facilities
Article 4. Optional Services (Refs & Annos)
§ 72417. Occupational Therapy Service Unit -Staff.

(a) The occupational therapy service unit shall be under the direction of an occupational therapist.

(b) An occupational therapy assistant shall work only under the supervision of an occupational therapist.

(c) There shall be occupational therapists and occupational therapy assistants in the number to meet the identified needs of the patients.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, Health and Safe Code.

22 CCR § 72417, 22 CA ADC § 72417

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

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(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 2010), incorporated herein by reference.~~

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(b) Client related tasks that may be delegated to an aide include specifically selected routine aspects of an intervention session. In addition to the requirements of Code section 2570.2,

subdivisions (a) and (b), the following factors must be present when an occupational therapist delegates a selected aspect of an intervention to an aide:
(1) The outcome anticipated for the aspects of the intervention session being delegated is predictable.
(2) The situation of the client and the environment is stable and will not require that judgment or adaptations be made by the aide.
(3) The client has demonstrated previous performance ability in executing the task.
(4) The aide has demonstrated competence in the task, routine and process.
(c) The supervising occupational therapist shall not delegate to an aide the following tasks:
(1) Performance of occupational therapy evaluative procedures;
(2) Initiation, planning, adjustment, or modification of treatment procedures.
(3) Acting on behalf of the occupational therapist in any matter related to occupational therapy treatment that requires decision making.
~~(d) All documented client related services shall be reviewed and cosigned by the supervising occupational therapist.~~

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

§ 4187. ~~Supervision Plan for an Occupational Therapist~~
Occupational Therapy Assistants Serving in Administrative Positions
An occupational therapy assistant in an administrative role, or supervisory role related to the provision of occupational therapy services, shall only provide administrative ~~services~~ responsibilities ~~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~~ in a setting where permitted by law.

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.

AOTA® The American Occupational Therapy Association, Inc.

Occupational Therapy: Living Life To Its Fullest®

January 3, 2012

VIA EMAIL to cbot@dca.ca.gov
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2005 Evergreen Street, Suite 2050
Sacramento, CA 95815

Re: MODIFIED TEXT OF TITLE 16, DIVISION 39, § 4187 PROPOSED SUPERVISION PROVISIONS

Dear Ms. Martin:

I am writing on behalf of the American Occupational Therapy Association, Inc. (AOTA), which represents the professional interests of 140,000 occupational therapists and occupational therapy assistants throughout the country, including more than 3,200 occupational therapists, occupational therapy assistants and occupational therapy students in the state of California. AOTA appreciates the Board's careful consideration of the issues addressed in the proposed regulation, and thanks you for the opportunity to comment on the modified text.

The language in the modified text of § 4187:

> An occupational therapy assistant in an administrative role, or supervisory role related to the provision of occupational therapy services, shall only provide administrative responsibilities in a setting where permitted by law.

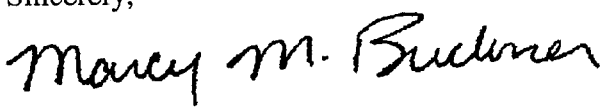
AOTA recognizes the Board's need to provide guidance to occupational therapy assistants who function in an administrative or supervisory role with occupational therapists. However, we are concerned that the modified text of the proposed regulation provided in the supervision provisions published by the Board on December 19, 2011 might be misinterpreted to mean that an occupational therapy assistant in an administrative role, or supervisory role related to the provision of occupational therapy services may **only** provide service in this role and may not also practice as an occupational therapy assistant providing occupational therapy services to clients.

AOTA requests that the Board clarify the language used in the modified text to recognize that an occupational therapy assistant in an administrative role or supervisory role related to occupational therapy service is not restricted to providing administrative services only in these roles, but may also provide occupational therapy services to clients as an occupational therapy assistant so as long as the occupational therapy assistant is providing service in accordance with the practice act and as authorized under current law for the setting in which they are practicing.

4720 Montgomery Lane
Bethesda, MD 20814-1220
301-652-2682
301-652-7711 fax
800-377-8555 TDD
www.aota.org

AOTA thanks you for your time and consideration regarding this matter. If we can provide further information or resources, please feel free to contact Marcy Buckner at mbuckner@aota.org or (301)-652-6611 ex. 2016.

Sincerely,



Marcy M. Buckner
State Policy Analyst
The American Occupational Therapy Association, Inc.

cc: Shawn Phipps, PhD, MS, OTR/L, FAOTA
President, Occupational Therapy Association of California

cbot, CBOT@DCA

From: joannschafer@comcast.net
Sent: Friday, December 16, 2011 5:56 PM
To: cbot, CBOT@DCA
Subject: Re: CBOT - Interested Parties - Notice of Proposed Regulatory Action

Dear CBOT,

Can the text you changed regarding "aides" working with patients be misconstrued. Are aides allowed to perform routine aspects of Occupational Therapy treatment on patient's without being in line of sight of the supervising Occupational Therapist?

Let me know.

Thank you,

JoAnn M. Schafer, OTR/L
joannschafer@comcast.net

From: "CBOT@DCA cbot" <CBOT.cbot@dca.ca.gov>
Sent: Friday, December 16, 2011 3:42:28 PM
Subject: CBOT - Interested Parties - Notice of Proposed Regulatory Action

Dear Interested Party,

Attached are the Notice and Modified Text proposing regulatory amendments to the regulations governing Supervision.

If you no longer wish to receive information from the Board, please advise us via email at cbot@dca.ca.gov.

Thank you,

CBOT Staff

cbot, CBOT@DCA

From: AD <ultravox5@comcast.net>
Sent: Friday, December 16, 2011 4:06 PM
To: cbot, CBOT@DCA
Subject: RE: CBOT - Interested Parties - Notice of Proposed Regulatory Action

Hi, this is in reference to proposed changes in regulations. I wish to express my feelings. As a COTA with numerous years experience, it should absolutely be permissible for a COTA to function in an administrative position. Ultimately, whomever is the "director" of a department will be of a different discipline, experience level, education level than others within the department. Such as a ST supervising a PT, a PT supervising a COTA...and so forth. Professional designation does not demonstrate necessarily that one will be a "good" director. There are OTRs that may be great clinicians---but no so great directors...and vice versa. Same for COTAs. What strikes me as appropriate is the concept of ensuring there is an OTR who would participate in any clinical assessment of an OTR come performance review that a COTA may be doing, that there always be access to an OTR for all clinical matters.
But one's professional growth being "stifled" due to being "just" a COTA seems inappropriate. Thank you for allowing me the opportunity to express my thoughts, Alan de Mena,COTA

-----Original Message-----
From: Board of Occupational Therapy Legislation and Regulation Updates [mailto:CBOT-REGS@LISTSERV.DCA.CA.GOV]
On Behalf Of California Board of Occupational Therapy
Sent: Friday, December 16, 2011 3:42 PM
To: CBOT-REGS@LISTSERV.DCA.CA.GOV
Subject: CBOT - Interested Parties - Notice of Proposed Regulatory Action

Dear Interested Party:

Attached are the links to the Notice and Modified Text proposing regulatory amendments to the regulations governing Supervision.

http://www.bot.ca.gov/board_activity/laws_regs/supprov_noticemodtext.pdf
http://www.bot.ca.gov/board_activity/laws_regs/supprov_modtext.pdf

Thank you,
CBOT Staff

To unsubscribe from this email list please click on the link below and follow the instructions on the web page.

https://www.dca.ca.gov/webapps/bot/subscribe.php

Review of proposed Board Member Disciplinary Resource Manual.

The draft manual is attached for review.

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Complaint Process

Overview

When Board staff receives a complaint regarding an occupational therapist or occupational therapy assistant, an initial review is conducted to determine if there is a violation of the Practice Act and if we have legal authority (jurisdiction) to take action. If these conditions are not met, the complaint is closed as "No Jurisdiction". If it is determined the allegation might be a violation, and there is legal authority to take action, Board staff conducts an investigation.

Examples of complaints that fall within the Board's jurisdiction include, but are not limited to:

1. Practicing occupational therapy without a license;
2. Alcohol or substance abuse;
3. Impaired practice due to alcohol or substance use;
4. Gross negligence/incompetence;
5. Patient abuse and neglect;
6. Sexual, violent, assaultive or abusive offenses;
7. Fraud, Fiscal dishonesty, theft or larceny offenses;
8. Mentally impaired and unsafe to practice;
9. Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.
10. Conviction of a crime involving harassment or stalking (as defined by the Penal Code);
11. Conviction of a crime involving lewd conduct, prostitution or solicitation thereof, or pandering and/or indecent exposure (as defined by the Penal Code);
12. Failure to comply with any mandatory reporting requirements;
13. Unprofessional conduct;
14. Failing to provide appropriate supervision;
15. Failing to appropriately or adequately document patient records;
16. OTs or OTAs on probation who have violated their probation conditions;
17. Other acts or convictions substantially related to the practice of occupational therapy

Complaints that are outside the Board's jurisdiction include, but are not limited to:

1. Interpersonal conflicts
2. Employee-employer relations
3. Labor issues
4. Rudeness or impolite behavior
5. Complaints against health care practitioners that are not OTs, OTAs, health care facilities, clinics, or agency operations

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When the public or another agency files a complaint with the Board, staff will acknowledge receipt of the complaint, in writing, within ten (10) days.

The fundamental purpose of an investigation is to determine if the allegation(s) has merit. The investigative process may involve requesting more information from the complainant, including but not limited to written declarations, documentation, employment records, and billing statements. If treatment notes or records are needed, the complainant is asked to sign an authorization allowing the release of their medical records. Employers, witnesses, supervisors, and administrators may be interviewed or asked to provide written statements and/or records to help ascertain if the allegations have merit. In all cases, Board staff or the Division of Investigation (DOI) Investigator will attempt to obtain the subject's insight and perspective into the allegations. If the subject declines to participate in the investigation, it does not preclude the Board from taking action based on evidence it develops. However, a failure to cooperate/ participate may compromise the investigation process. Complaints of a more serious nature or which contain allegations of harm to the public or which will require extensive record retrieval are forwarded to DOI for investigation by a sworn peace officer.

When the investigation concludes, if the evidence does not support the allegations, the complaint is closed and both the subject and complainant are notified. If a violation is substantiated, the case analyst will recommend action to be taken. Violations of a lesser a nature typically are resolved by issuing an education letter or a citation and fine. More serious cases warrant the initiation of formal disciplinary action with the Office of the Attorney General (AGO) to seek revocation, suspension, or probation of the license.

Board Member Involvement

Board Members are not involved in this process, this is purely a Board staff process. Should the matter progress to the point formal action is being initiated, Board Members will need to be unbiased in rendering a decision on the matter.

Board Members are reminded that if anyone contacts them to discuss a complaint, investigation, or who indicates disciplinary action has been initiated against them, please advise the individual you are unable to discuss the matter and refrain from further discussion. You are encouraged to advise the individual that continued discussion could result in your being disqualified from voting on the matter. [Please contact the Executive Officer to advise of any contact by a licensee.]

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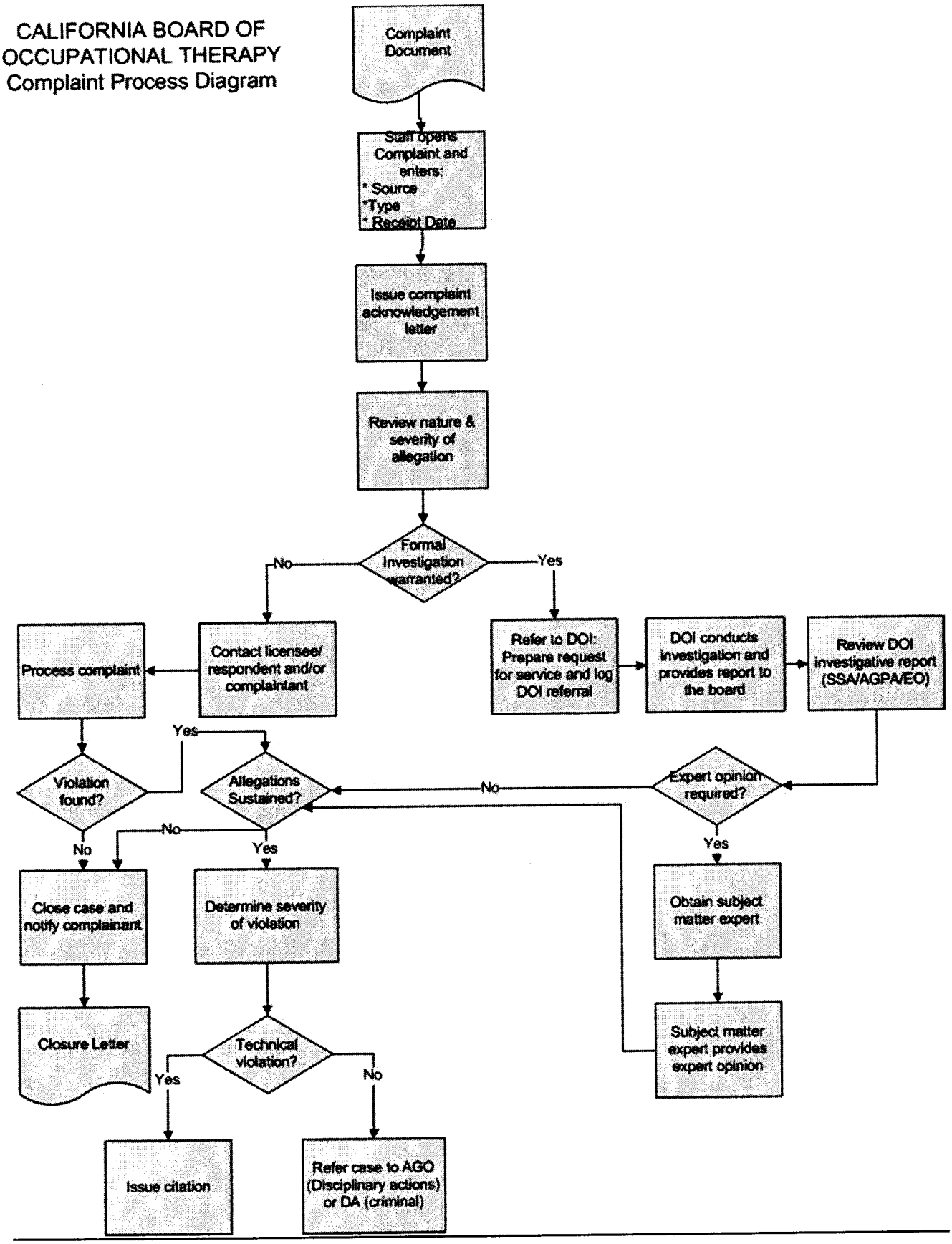
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
Complaint Process Diagram



Citation Process

Overview

Citations are issued when a violation can be proven. Citations bridge the gap between an education letter and the initiation of formal disciplinary action. Board staff drafts the Citation and Fine for the Executive Officer's (EO) signature. Citations identify the codes that allegedly were violated and contain a summary of the events and circumstances surrounding the alleged violation. On occasion, citations may include an abatement order to correct a matter (e.g. submitting an address change, documenting patient/client records, correcting advertisement, etc.).

Board staff serves the citation to the subject's address of record and tracks the citation for compliance or appeal. The cited individual has 30 days to pay the citation, comply with any abatement order, or appeal the citation. If the citation is paid the matter is closed. If an order of abatement was also incorporated into the citation, the licensee must demonstrate compliance unless a later date for compliance is specified.

If a citation is not paid or appealed within 30-days, Board staff will place a hold on the subject's license renewal and will initiate a series of demand for payment letters. If the subject fails to respondent to the third and final demand letter, the case is referred to the Franchise Tax Board for collection. If an abatement order is not complied with, the Board has the option to file an Accusation with the AGO, for failure to comply with the Citation Abatement Order (see disciplinary process).

There are three options to appeal a citation: (1) Request an informal conference with the EO (or his/her designee); (2) Request an administrative hearing; or (3) Request both an informal conference and an administrative hearing.

Informal conferences are held by teleconference or in person. If the EO decides to withdraw the Citation and Fine, the citation is closed. If the EO affirms the Citation and Fine, the subject is required to pay the fine unless a request for an administrative hearing was filed. If the EO modifies the Citation and Fine, a modified citation will be served. The subject will then be required to pay the modified citation unless a request for an administrative hearing was filed.

Requests for an administrative hearing are forwarded to the AGO. A Deputy Attorney General (DAG) will be assigned and schedule a hearing date with the Office of Administrative Hearings (OAH). After hearing the case, an Administrative Law Judge (ALJ) will issue a Proposed Decision for the Board to consider.

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Board Member involvement

Board Members are not involved in the citation process unless an administrative hearing is requested to appeal a citation. Citations are NOT considered formal disciplinary action since the license is not being revoked or restricted. Instead, Board members are provided statistical data regarding the issuance of citations at scheduled meetings.

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CITATION PROCESS
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Discipline Process

Overview

Once a complaint has been investigated and a violation has been substantiated, the Discipline Process begins. The process involves three phases: Investigation; Prosecution, and Adjudication. "Due Process" requires that the licensee be given notice of the action to be taken and the opportunity to be heard (have their day in court, or more specific to us- an administrative hearing).

This section will provide information on processes and steps in the prosecution phase. Once an investigation has concluded and it has been determined that the case warrants formal disciplinary action, the case is transmitted to the AGO. The Board's transmittal will ask that the DAG review the case and prepare an appropriate charging document, including an Accusation, Statement of Issues, Petition to Revoke Probation, etc., based on records contained in the transmittal. ("Accusation" will be used for all future references to any legal pleading.)

Once a DAG is assigned, the Accusation is drafted and submitted to Board staff to review. Once approved, the Accusation is signed by the EO and served on the respondent at their address of record. This process can take anywhere from three months to a one year to complete. On occasion the DAG may recommend that the Board withdraw the case or suggest alternative action.

When an Accusation is served, the licensee/applicant is advised they must respond within 15 days to file a NOD (a form contained in the Accusation service packet) and request a hearing to contest the charges. The licensee/applicant is also provided information on how to obtain copies of materials that will be used in the prosecution at the hearing. Licensees are also advised to contact the DAG to inquire about the possibility of entering into a settlement if they wish to avoid a hearing.

If a NOD is not received within 15 days the Board is authorized to proceed with a Default Decision. Staff and the DAG normally allow 20+ days to elapse before initiating action to draft a Default Decision. When the Default Decision is received, staff will make copies and distribute it to Board Members for a vote. (Please reference Default Decisions.)

If a NOD is received, the DAG will coordinate with the respondent and his/her legal counsel a hearing date. Hearings are usually scheduled between four to nine months from the point the Notice of Defense is submitted (barring continuance requests by the respondent). During this period the possibility remains that the parties may agree to a Stipulated Settlement prior to the hearing date.

If a Stipulated Settlement is reached, the Stipulation is forwarded to the Board staff to distribute for a vote. (Please reference Stipulated Settlements.)

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If the case goes to hearing, an ALJ will preside over the hearing and will issue a Proposed Decision approximately 30-45 days after the hearing. Once the Proposed Decision is received from the OAH, the decision will be copied and distributed to the Board Members for a vote. (Please reference Proposed Decisions.)

A reminder to Board Members, *you are the ultimate decision maker in these matters.* You have the authority to decrease or increase penalties. When decreasing or increasing a penalty additional steps are required; the information about these processes and the steps to take are outlined in the sections entitled *Non-Adopt – Decrease Penalty* and *Non-Adopt – Increase Penalty.*

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DISCIPLINE PROCESS
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Definitions

TERM	DEFINITION
Accusation	Charges filed against a licensee alleging violation(s) of federal, state, or local laws or regulations
Citation and Fine Order	A means of addressing relatively minor violations. A monetary fine (commensurate with the violation committed) and/or an order of abatement may be included. A Citation is *not* formal disciplinary action.
Citation Paid in Full	Fine levied paid in full, representing satisfactory resolution of the matter for purposes of public disclosure; not an admission of guilt.
Closed Session	Deliberation on disciplinary matters that is not open to the public. Once the disciplinary decision becomes effective it will be made public.
Default Decision	Licensee fails to respond to an Accusation/Petition to Revoke Probation by filing a Notice of Defense or fails to appear at an administrative hearing.
Initial Probationary License	A probationary license imposing discipline, issued to an applicant in lieu of the denial of the application.
Interim Suspension Order (ISO)	An order issued by an administrative law judge upon petition by the Board, suspending a licensee from all or a specified part of the practice of occupational therapy. An Accusation must be filed; if a Notice of Defense is filed by the licensee, a hearing must be held within 30-days. ISOs are only pursued in cases where there is an eminent concern for the health, safety, and welfare of the public.
Mail Vote	A disciplinary matter that is conducted by mail or email, not in-person, at a Board Meeting. Mail votes may be necessary due to the time between the date of receipt of legal documents and the next scheduled Board meeting or, in some cases, due to statutory deadlines.
Modification, Petition for	Modification of the Terms/Conditions of Probation may be granted by the Board only after the licensee has petitioned (submitted a request to) the Board, and at a hearing before the Board with an ALJ presiding, provides clear and convincing proof of rehabilitation.

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Non-adopt (decrease penalty)	The Board may "non-adopt" a Stipulated Settlement or a Proposed Decision issued by an Administrative Law Judge. The Board would then issue its own Order decreasing the penalty and/or terms.
Non-adopt (increase penalty)	The Board may "non-adopt" a Stipulated Settlement or a Proposed Decision issued by an Administrative Law Judge, to increase the penalty. Board would then issue a non-adopt order and identify the items that it wishes to hear arguments from the respondent and DAG. Transcripts of the hearing, documents entered into evidence in the case, and arguments from the parties would be provided to the Board. After consideration of this material, the Board then issue its own Order with revised penalty and/or terms.
Order Delaying Decision	A 10-day Order Delaying Decision can be issued by the Executive Officer to allow time for the Board to evaluate a Petition for Reconsideration. Typically an Order Delaying Decision is needed when a Petition is received on or just before the filing deadline. In the event that a quorum of the Board is unable to render a Decision after the 10-day delay, the Petition is deemed denied.
PC 23 Order	A PC 23 Order is an Order issued pursuant to Penal Code Section 23. This section allows the DAG to appear at a licensee's criminal proceeding to promote consumer protection and request the (criminal court) judge order the licensee to not practice or impose practice restrictions. If granted, the Order is issued to the person, not imposed against the license.
PC 1203.4 (Expungement)	An order issued pursuant to Penal Code Section 1203.4, removes a criminal conviction from an individual's record for the purpose of employment background check. However, this removal does not apply in cases where an individual is applying for a license. Thus, applicants and licensees are required to disclose any conviction, even those that have been expunged.
Petition to Revoke Probation	Legal document charging violation(s) of a probationary order and seeking revocation of the license.
Probation Term Completed	Licensee completed the probationary period successfully.
Probation Tolled	The licensee is not currently working as required in his/her probationary terms. The probationary period does not resume or begin until the probationer commences practice in California.

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Public Reproval	A formal reprimand issued by the Board.
Proposed Decision	A document which contains the determination of issues, findings of fact and the proposed order of an administrative law judge after the conclusion of an administrative hearing.
Reconsideration, Petition for	After receiving notice of a disciplinary decision, the respondent or Board staff may request that the Board reconsider all or a part of the decision. The Petition for Reconsideration must be received before the effective date of a decision.
Reinstatement, Petition for	Reinstatement of the license is granted only after the licensee has petitioned the Board, and at a formal hearing before the Board with an ALJ presiding, provides clear and convincing proof of rehabilitation.
Remand	Send a case back to an ALJ for consideration or action.
Revoked/Revocation	The license and right to practice is terminated.
Request to Vacate a Decision	Such requests pertain to Default Decisions and must be received within 7 days of service of the Default Decision on the respondent. The Board may vacate the decision and grant a hearing upon a showing of 'good cause.' Government Code Section 11520(c) defines Good Cause as (1) Failure of the person to receive notice served pursuant to Section 11505; (2) Mistake, inadvertence, surprise, or excusable neglect.
Revoked, Stayed, Probation	"Stayed" means the revocation has been put off so that the licensees may practice so long as they comply with specific probationary terms and conditions. Violation of probation may result in termination of the probation and the revocation that was postponed may be ordered.
Service/Served	Requires that notices or legal documents be mailed by certified mail to the respondent's address of record and his/her legal counsel.
Statement of Issues	Charges filed against an applicant to deny licensure due to criminal conviction(s) or committing an act(s) in violation of federal or state laws or regulations

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Stay of Execution	The Executive Officer suspends the effective date of the action to provide additional time for the Board to consider a licensee's request.
Stipulated Settlement and Disciplinary Order	A Settlement agreed to by the parties (Board staff/DAG and licensee/counsel) in lieu of a formal hearing to resolve the accusation or statement of issues and impose discipline.
Surrender of License	The licensee voluntarily turns in the license, subject to acceptance by the board, and the right to practice is terminated.
Suspension	The licensee is prohibited from practicing for a specific period.
Transcript	When non-adopting a Proposed Decision to consider increasing a penalty the Board is required to review the transcripts of the hearing.
Writ of Mandate	An appeal filed in Superior Court by a respondent that alleges the Board abused its discretion in rendering a decision to take disciplinary action and which asks for relief.

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Accusations

Background

An Accusation results from a complaint case having been determined by Board staff to warrant formal disciplinary action. The process is initiated by Board staff transmitting the case to the Attorney General's Office that is in closest geographical location to the subject's address of record. The transmittal memo identifies the code sections that allegedly have been violated and contains supporting documentation (e.g. investigation report, court documents). The assigned DAG prepares the Accusation which outlines the complete legal basis for disciplinary action and forwards it to Board staff for review.

When the draft Accusation is received, it is reviewed for accuracy and completeness (all acts and offenses listed) and shall include a request for cost recovery (the Board's cost for investigating and prosecuting the case). Once approved and signed by the EO, the Accusation is served to the licensee at their address of record.

The Accusation is then posted on the license verification system on the Board's website. The deadline for the Respondent to file a NOD is 15-days from the date of service; the NOD is the licensee's opportunity to contest the charges and request a hearing and/or open a dialog to seek a potential settlement.

If no NOD is received, the DAG will be instructed by the case analyst to prepare a Default Decision.

If a NOD is received, the DAG will be instructed to schedule a hearing as soon as possible.

Often the respondent, or his/her legal representative, will contact the DAG to inquire about the possibility of entering into a Stipulated Settlement Agreement (Stipulation) to reduce costs for the respondent and avoid the uncertainties of a hearing. Board staff will work with the DAG, to establish appropriate terms and conditions if the case warrants a settlement. If a settlement is not warranted, or if settlement terms cannot be reached, the Board members will receive a Proposed Decision from the ALJ that presided over the subject's hearing.

Review Process

Board members do not see nor are they made aware of an Accusation on its own. The Accusation is only provided when a Stipulation or a Proposed Decision is being considered by the Board members.

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Statement of Issues

Background

Statements of Issues (SOI) is a charging document similar to an Accusation but specifically applies to an applicant for licensure.

When Board staff denies an applicant for licensure, the applicant has the opportunity to appeal the denial for 60-days after service. Upon receipt of the applicant's *timely* appeal, the case is transmitted to the AGO that is in the closest geographical location to the subject's address of record.

The transmittal memo asks the AGO to review the matter for disciplinary action, identifies the code sections that serve as basis for the denial, and contains documentation (e.g. the application for licensure, a certification of non-licensure, the Board's denial letter, the applicant's appeal, and certified arrest and court documents, etc.) that support the request. The assigned DAG will conduct a review and prepare the SOI that will outline the complete legal basis for denial.

When the draft SOI is received it is reviewed for accuracy and completeness (all acts and offenses listed). Once it is approved, the SOI is signed by the EO, and returned to the DAG for service. Once the DAG serves the Statement of issues on the respondent he/she will contact the applicant to coordinate a hearing date. (This varies from the process associated with Accusations where a licensee must file a Notice of Defense within 15-days of service. The appeal that the applicant submitted in response to staff's denial letter serves as the notice of defense and request for a hearing.)

An SOI hearing is scheduled approximately 4-6 months after the SOI is served. Similar to an Accusation, a SOI can be resolved by a Stipulated Settlement and Disciplinary Order in lieu of a hearing if the parties can come to terms.

If the matter is not resolved through a settlement and the case is heard before an ALJ, the Board will receive a Proposed Decision approximately 30-days after the hearing. The Proposed Decision will then be copied and distributed to the Board for a vote.

Review Process

Board members do not see nor are they made aware of a SOI; it is provided to the Board when a stipulated settlement agreement or a Proposed Decision is being considered.

No Documents Are Provided At This Pont

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Proposed Decision –
Accusation/Statement of Issues/Petition to Revoke Probation

Background

When an Accusation, Statement of Issues, or Petition to Revoke Probation is served, the Respondent may file a Notice of Defense to contest the merit(s) of the charges or provide mitigating evidence for consideration at the administrative hearing. A Proposed Decision the legal document issued by an ALJ after the hearing.

When a Proposed Decision is received in the Board's Office it must be acted on it within 100 days. Board staff is also required to provide the respondent and his/her legal counsel a copy of the Proposed Decision within 30 days of its receipt in the office regardless of whether the Board has acted on the Proposed Decision.

While the ALJ issues the Proposed Decision, the Board is the final decision maker. At its discretion, the Board may:

1. Adopt the ALJ's Proposed Decision as the Decision (of the Board),
2. Non-adopt the Proposed Decision and Increase the penalty, or
3. Non-adopt the Proposed Decision and impose a lesser penalty.

If the Board votes to non-adopt a Proposed Decision to *increase* the penalty, the Board must act on the matter within the 100-days from the date it receives the transcripts and exhibits from the hearing; a new 100-day deadline is established to act. Please refer to the section entitled *Non-Adopt – Increase Penalty.*

If the Board votes to non-adopt a Proposed Decision to *lessen* the penalty, the Board must act on the matter within the 100-days from the date it receives the Proposed Decision. Please refer to the section entitled *Non-Adopt – Decrease Increase Penalty.*

In any case, should the Board fail to act within the statutory 100-day deadline, the Proposed Decision becomes operable by law and the Board loses jurisdiction to act on the matter.

Objective

Render a decision that is consistent with the Board's Disciplinary Guidelines, giving the highest priority to protecting the public's health, safety, and welfare.

Review Process

Board Members should review the charging document (Accusation, Statement of Issues, Petition to Revoke), noting the alleged violations and the circumstances and events surrounding the charges.

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Board Members review the ALJ's Proposed Decision noting the facts, legal findings, and legal conclusion. The Proposed Decision should be consistent with the recommended minimum/maximum penalties and conditions of probation set forth in the Disciplinary Guidelines.

Documents Provided

- Charging document
- Proposed Decision
- Ballot
- Postage Paid Envelope

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Non- Adopt (Proposed Decision) – Increase Penalty

Background

A Proposed Decision is issued by an ALJ subsequent to an administrative hearing. If the Board votes to non-adopt a Proposed Decision and wishes to *increase* the penalty, the Board must read the transcript of the hearing, review all exhibits submitted by both parties during the hearing, and review oral/written argument from the parties before acting on the case. Based on a review of this information, the Board then directs legal counsel to prepare a Decision after Non-Adoption, specifying the terms and conditions that have been increased.

When the Board votes to non-adopt a Proposed Decision to increase the penalty, the Board must act on the matter within the 100-days from the date it receives the transcripts and a new 100-day deadline to act is established.

Should the Board fail to act within the statutory 100-day deadline, the Proposed Decision becomes operable by law and the Board loses jurisdiction to act on the matter.

Objective

Render a decision that is consistent with the Board's Disciplinary Guidelines, giving the highest priority to protecting the public's health, safety, and welfare.

Review Process

Board Members review the charging document (Accusation, Statement of Issues, Petition to Revoke Probation), noting the alleged violations and the circumstances and events surrounding the charges.

Board Members review the ALJ's Proposed Decision noting the facts, legal findings, and legal conclusion. The Proposed Decision should be consistent with the recommended minimum/maximum penalties and conditions of probation set forth in the Disciplinary Guidelines.

Documents Provided

- Charging document
- Proposed Decision
- Transcript of hearing
- Exhibits from hearing
- Written arguments from DAG and opposing counsel
- Ballot
- Postage Paid Envelope

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Non- Adopt (Proposed Decision) – Decrease Penalty

Background

Proposed Decisions are issued by an ALJ subsequent to an administrative hearing. If the Board votes to non-adopt a Proposed Decision to *lessen* the penalty, the Board directs legal counsel to prepare a Decision after Non-Adoption. The Decision shall specify the terms and conditions that have been reduced. (A review of the transcripts or exhibits is not required when reducing a penalty.)

When the Board votes to non-adopt a Proposed Decision to *lessen* the penalty, The Board must act on the matter within the 100-days from the date it receives the Proposed Decision

Should the Board fail to act within the statutory 100-day deadline, the Proposed Decision becomes operable by law and the Board loses jurisdiction to act on the matter.

Objective

Render a decision that is consistent with the Board's Disciplinary Guidelines, giving the highest priority to protecting the public's health, safety, and welfare.

Review Process

Board Members review the charging document (Accusation, Statement of Issues, Petition to Revoke Probation), noting the alleged violations and the circumstances and events surrounding the charges.

Board Members review the ALJ's Proposed Decision noting the facts, legal findings, and legal conclusion. The Proposed Decision should be consistent with the recommended minimum/maximum penalties and conditions of probation set forth in the Disciplinary Guidelines.

Documents Provided

- Charging document
- Proposed Decision
- Transcript of hearing (optional)
- Exhibits from hearing (optional)
- Written arguments from DAG and opposing counsel (optional)
- Ballot
- Postage Paid Envelope

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Default Decision

Background

Once a charging document (Accusation, Statement of Issues, Petition to Revoke Probation) is served, the practitioner has 15-days to file a Notice of Defense (NOD).

A Default Decision brings finality to cases where the respondent waives his/her right to an administrative hearing and may occur if:

1. The respondent fails to file a Notice of Defense (NOD) to contest the merits of an Accusation, or
2. The respondent files a NOD but fails to appear for their scheduled administrative hearing subsequent to serving of an Accusation (or Statement of Issues).

If either of the above occurs, the DAG prepares a Default Decision and Evidentiary Package, which sets forth the evidence, underlying events and/or and background in the case. The Evidentiary Package sums up the information that the DAG would have presented had an administrative hearing occurred.

Once the Default Decision and Evidentiary Package are received, a Board member vote package is prepared. If a regularly scheduled Board Meeting is being held in less than three weeks, the package is held until the Board meeting. Otherwise, the package is sent out for vote by mail.

Objective

Board Members render a decision to determine if cause exists to proceed with a Default Decision for the licensee's failure to file a NOD or to attend a scheduled hearing.

Review Process

Board Members review the Default Decision, Evidentiary Package, and charging document to determine if the evidence supports the action.

Documents Provided

- Charging document
- Default Decision
- Investigatory Package
- Ballot
- Postage paid return envelope

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Request to Vacate Default Decision

Background

When the Board has adopted a Default Decision (revoking the license), Respondent has the right, within 7-days of service, to file a motion requesting that the Default Decision be vacated and stating the grounds relied thereon. The Board may, in its discretion, vacate the Default Decision and grant a hearing on a showing of good cause.

Pursuant to Government Code Section 11520(c), good cause includes, but is not limited to, any of the following:

(1) Failure of the person to receive notice served pursuant to Section 11505;
(2) Mistake, inadvertence, surprise, or excusable neglect.

If the Request to Vacate Default Decision is not received in the Board's office by the deadline date established, the request shall be deemed denied.

If respondent submits a timely Request to Vacate the Default Decision, a Stay of Execution is issued by Executive Officer to allow the Board the opportunity to vote on respondent's request. The Stay must be signed prior to the effective date; if not requested timely, the request is deemed denied.

If the motion is granted, the Decision is sent to the DAG with instructions to schedule a hearing as soon as possible.

If the motion is denied, the (revocation) Decision will become effective immediately after the Stay of Execution expires.

Objective

The Board Members render a decision whether Respondent demonstrated good cause, pursuant to the Administrative Procedures Act section 11520(c), for requesting his/her motion to vacate the Default Decision.

Review Process

Board Members review the motion requesting the Default Decision be vacated, noting the reasons the request has been made and determining if good cause has been established. Good cause includes, but is not limited to any of the following: (1) Failure of the person to receive the Accusation/Statement of Issues, and (2) Mistake, inadvertence, surprise, or excusable neglect.

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Documents Provided

- Respondent's Motion to Vacate the Default Decision ('Request')
- Rebuttal Brief (if applicable)
- Ballot and instructions
- Postage paid return envelope

NOTE: The charging document is not included with these requests.

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(Petition for) Reconsideration

Background

After the Board issues a Decision, the Respondent may request reconsideration of all or part of a case.* The power of the Board to order reconsideration shall expire 30 days after service of the Decision to the Respondent.

If the Petition to Reconsider is not received in the Board's office by the deadline date established, the Petition shall be deemed denied.

If respondent submits a timely Petition to Reconsider, a mail vote package is prepared for Board Members to either grant or deny the motion (This is the request for the Board to reconsider the case only; the merits of the case are not considered at this time.)

(If additional time is needed for the Board to act, including receive, review and vote on the petition, the Executive Officer may grant a Stay of Execution. The Stay delays the expiration date for no more than 10 {additional} days. This additional time is solely for the purpose of the Board to consider and act on the Petition.)

If the motion is granted, the matter is placed on the agenda for discussion at the next Board meeting.

If the motion is denied, the Decision will become effective as originally ordered by the Board.

If the Board fails to act (receive, review and a quorum of votes render a decision on the petition) within the time allowed, the petition shall be deemed denied.

Review Process

Reconsideration, if granted, does not mean the Board is issuing a new decision; it only means the Board will take a second look at the Decision at a future meeting.

Documents Provided

- Respondent's Petition to Reconsider
- Order and Decision
- Charging document
- Evidentiary package (if applicable)
- Ballot and instructions
- Postage paid return envelope

(*Board staff may also petition the Board to reconsider all or part of a case.)

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Stipulated Settlement Agreement - Accusations

Background

Stipulated Settlement Agreements ('Stipulations') occur after an Accusation has been filed. The respondent has filed a Notice of Defense to request an administrative hearing to contest the charges and/or provide mitigating evidence. Often the respondent or his/her legal counsel will contact the AGO to inquire if a settlement is possible to avoid the uncertainties of a hearing and reduce respondent's legal costs. If the case warrants settlement, Board staff will provide settlement terms to the DAG. Board staff does not take this task lightly and any settlement that is being brought before the Board should be consistent with the Disciplinary Guidelines.

Although it may appear the respondent benefits from a settlement, the Board benefits by eliminating the costs of holding a hearing, the imposition of discipline is more expedient, and settlement terms coordinated in settlements are usually more specific and stronger than what likely would have resulted from a hearing and Proposed Decision.

Objective

Render a decision that is consistent with the Board's Disciplinary Guidelines, giving the highest priority to protecting the public's health, safety, and welfare.

Board Member Review Process

Board Members review the Accusation, noting the alleged violations and the circumstances and events surrounding the charges. The proposed settlement terms should be consistent with the admitted violations and the recommended minimum/maximum penalties and conditions of probation set forth in the Disciplinary Guidelines.

In addition, the Deputy Attorney General will prepare a recommendation that will provide background, current information, and explain any deviations (from the Disciplinary Guidelines) or considerations that were made in the proposed settlement.

If the Stipulation *is* acceptable, a vote to adopt the Stipulation should be cast.

If the Stipulation *is not* acceptable, a vote to non-adopt the Stipulation should be cast. A non-adopt of a Stipulation will result in further delay in adjudicating the case. The case will be returned to the DAG who will (1) take the necessary steps to obtain a hearing date in the matter or (2) attempt to renegotiate the terms of the Stipulation with respondent or respondent's counsel.

Due to the unique nature of this type of action, please contact Board staff for further information before casting a vote to non-adopt a Stipulation.

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(When voting by mail ballot, it would be helpful to Board staff if Board members provide their rationale for the non-adoption decision for future reference in similar cases.)

In mail votes, if a majority of the Board members request to discuss the case in a closed session meeting of the Board, the matter will then be scheduled for discussion.

Documents Provided for Board Vote

- Accusation
- Stipulation
- Deputy Attorney General Recommendation Memo
- Ballot
- Postage Paid Envelope

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Stipulated Settlement Agreement – Statement of Issues

Background

Stipulated Settlement Agreements ('Stipulations') occur after a SOI denying an applicant has been filed. The respondent has filed an appeal to request an administrative hearing to contest the charges and/or provide mitigating evidence. Often the respondent or his/her legal counsel will contact the AGO to inquire if a settlement is possible to avoid the uncertainties of a hearing and reduce respondent's legal costs. If the case warrants settlement, Board staff will provide settlement terms to the DAG. Board staff does not take this task lightly and any settlement that is being brought before the Board should be consistent with the Disciplinary Guidelines.

Although it may appear the respondent benefits from a settlement, the Board benefits by eliminating the costs of holding a hearing, the imposition of discipline is more expedient, and settlement terms coordinated in settlements are usually more specific and stronger than what likely would have resulted from a Proposed Decision a hearing.

Objective

Render a decision that is consistent with the Board's Disciplinary Guidelines, giving the highest priority to protecting the public's health, safety, and welfare.

Review Process

Board Members review the SOI, noting the alleged violations and the circumstances and events surrounding the charges. The proposed settlement terms should be consistent with the admitted violations and the recommended minimum/maximum penalties and conditions of probation set forth in the Disciplinary Guidelines.

In addition, the Deputy Attorney General will prepare a recommendation that will provide background, current information, and explain any deviations (from the Disciplinary Guidelines) or considerations that were made in the proposed settlement.

If the Stipulation *is* acceptable, a vote to adopt the Stipulation should be cast.

If the Stipulation *is not* acceptable, a vote to non-adopt the Stipulation should be cast. A non-adopt of a Stipulation will result in further delay in adjudicating the case. The case will be returned to the DAG who will (1) take the necessary steps to obtain a hearing date in the matter or (2) attempt to renegotiate the terms of the Stipulation with respondent or respondent's counsel.

Due to the unique nature of this type of action, please contact Board staff for further information before casting a vote to non-adopt a Stipulation.

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(When voting by mail ballot, it would be helpful to Board staff if Board members provide their rationale for the non-adoption decision for future reference in similar cases.)

In mail votes, if a majority of the Board members request to discuss the case in a closed session meeting of the Board, the matter will then be scheduled for discussion.

Documents Provided for Board Vote

- Statement of Issues
- Stipulation
- Deputy Attorney General Recommendation Memo
- Ballot
- Postage Paid Envelope

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Proposed Decisions – Citations

Background

When a Citation is served, the Respondent may file an appeal to contest the merit(s) of the charges, the order of abatement, the fine imposed by the citation and/or provide mitigating evidence for consideration, at an administrative hearing. A Proposed Decision is issued by an ALJ after the hearing.

While the ALJ issues a Proposed Decision, the Board is the final decision maker. At its discretion, the Board may:

1. Adopt the ALJ's Proposed Decision as the Decision (of the Board), or
2. Non-adopt the Proposed Decision and Impose a lesser penalty.
   (The Board may not increase the penalty in Citation cases.)

If adopted, the Proposed Decision becomes the Board's decision in the matter.

If non-adopted, and a lesser penalty is decided upon by the Board, that information is given to the Board's Legal Counsel to prepare a Decision after Non-Adoption. The Decision after Non-Adoption shall specify the item(s) removed, modified, and/or reduced (e.g. fine reduced; order of abatement modified, etc.)

When a Proposed Decision is received in the Board's Office it must be acted on it within 100 days. Failure to act within 100 days results in the ALJ's Proposed Decision becoming operable by law, the Board loses jurisdiction to act.

Objective

Board members determine whether the penalty is appropriate given the nature of the violation(s).

Review Process

Board Members review the Citation noting the alleged violations and the circumstances/ events surrounding the charges and the ALJ's Proposed Decision noting the facts, legal findings, and legal conclusion.

The Proposed Decision should be consistent with the recommended minimum/maximum penalties set forth in the Disciplinary Guidelines.

Documents Provided

- Citation
- Proposed Decision
- Ballot
- Postage Paid Envelope

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Petition to Compel Physical Examination or Psychiatric Evaluation and Order to Compel Physical Examination or Psychiatric Evaluation

Background

Once information is received that an OT/OTA (licensee) may have mental health issues or physical illness affecting the licensee's ability to safely practice, the EO may choose to pursue an 820 evaluation. Business and Professions Code (BPC) 820 states:

> **§ 820. Examination of licentiate for mental illness or physical illness affecting competency**
>
> Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

A pre-820 evaluation may be necessary and performed by an expert witness. This pre-820 evaluation consists of reviewing the information that has been obtained, which could include court and arrest information, a DOI report, information submitted from the licensee, or information from another governmental agency; nd rendering an option whether the licensee requires an in-person evaluation by a physician and surgeon or psychologist .

If the expert opinion has been received and processed, staff prepares the case to be transmitted to the AG's office.

If the assigned DAG determines that there is sufficient information to pursue an 820 evaluation then he/she will prepare a Petition to Compel a Mental Health Evaluation or Petition to Compel a Physical Evaluation (Petition) and an Order (requiring an evaluation or examination). The Petition is be signed by the Enforcement Manager and the Order is signed by the Executive Officer; both documents are served by the AGO.

The Order directs the licensee to contact Board staff to coordinate an evaluation by a specified health care professional. If the licensee does not contact Board staff and undergo an evaluation or examination within 30 days after receiving the Order, then the case will move on to the Accusation process for the licensee's failure to comply with the Order (undergo an evaluation or examination).

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If the licensee contacts Board staff regarding the evaluation/examination, Board staff contact a physician and surgeon or psychologist to conduct an in-person evaluation/ examination. Once the designated health care provider accepts the case, Board staff contacts the OT/OTA and instructs him/her to call and schedule an appointment for evaluation with the designated health care provider. The timeline to submit a written report is generally 2-4 weeks after the evaluation has been completed. (The cost of the evaluation/examination is the

If the evaluation or examination demonstrates the licensee cannot safely practice occupational therapy or should be monitored, there is cause for disciplinary action, and an Accusation is prepared by the AGO.

If the licensee complies with the Order, and the evaluation or examination demonstrates there is no cause for disciplinary action, the case is closed without further action; the Board would have no knowledge of this ation.

Review Process

(Board members do not see nor are they made aware of the Petition or the Order at this point.)

If an Accusation is filed, Board members will be made aware of the Petition and Order when they are requested to vote on a: stipulated settlement agreement, proposed decision or a default decision.

The Petition and Order are only referenced in a Proposed Decision or a Default Decision; these documents are not provided as part of the documentation supporting the Decision.

No Documents Are Provided At This Point

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BOARD POLICIES

1. *Placeholder*

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2. *Placeholder*

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3. *Placeholder*

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California Board of Occupational Therapy

UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES

July 2011

Additional copies of this document may be obtained by contacting the Board at its office in Sacramento, California or from its web site at www.bot.ca.gov.

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES

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UNIFORM STANDARDS FOR THOSE LICENSEES WHOSE LICENSES ARE ON PROBATION DUE TO A SUBSTANCE ABUSE PROBLEM

The following standards shall be adhered to in all cases in which a licensee's license is placed on probation due, in part, to a substance abuse problem. These standards are not guidelines and shall be followed in all instances, except that the Board may impose more restrictive conditions if necessary to protect the public.

Clinical Diagnostic Evaluations:

Whenever a licensee is ordered to undergo a clinical diagnostic evaluation, the evaluator shall be a licensed practitioner who holds a valid, unrestricted license which scope of practice authorizes him or her to conduct clinical diagnostic evaluations, has three (3) years experience in providing evaluations of health care professionals with substance abuse disorders, and is approved by the Board. The evaluations shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.

Clinical Diagnostic Evaluation Report:

The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee has a substance abuse problem, whether the licensee is a threat to himself or herself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the licensee's rehabilitation and safe practice.

The evaluator shall not have a financial, personal, or business relationship with the licensee within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation.

If the evaluator determines during the evaluation process that a licensee is a threat to himself or herself or others, the evaluator shall notify the board within 24 hours of such a determination.

For all evaluations, a final written report shall be provided to the board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed 30 days.

The Board shall review the clinical diagnostic evaluation to help determine whether or not the licensee is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed on the licensee based on the application of the following criteria:

License type, licensee's history, documented length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse problem, and whether the licensee is a threat to himself or herself or others.

When determining if the licensee should be required to participate in inpatient, outpatient or any other type of treatment, the Board shall take into consideration the recommendation of the clinical diagnostic evaluation, license type, licensee's history, length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse and whether the licensee is a threat to himself or herself or others.

FACILITATED GROUP SUPPORT MEETINGS

If a board requires a licensee to participate in facilitated group support meetings, the following shall apply:

When determining the frequency of required facilitated group meeting attendance, the board shall give consideration to the following:

- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use;
- the recommendation of the clinical evaluator;
- the scope and pattern of use;
- the licensee's treatment history; and,
- the nature, duration, and severity of substance abuse.

Group Meeting Facilitator Qualifications and Requirements:

1. The meeting facilitator must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse and shall be licensed or certified by the state or other nationally certified organization.
2. The meeting facilitator must not have a financial relationship, personal relationship, or business relationship with the licensee in the last five (5) years.
3. The group meeting facilitator shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.
4. The facilitator shall report any unexcused absence within 24 hours.

WORK SITE MONITOR REQUIREMENTS:

If a Board determines that a worksite monitor is necessary for a particular licensee, the worksite monitor must meet the following requirements to be considered for approval by the Board:

The worksite monitor shall not have a current or former financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the Board; however, under no circumstances shall a licensee's worksite monitor be an employee or supervisee of the licensee.

The worksite monitor's license scope of practice shall include the scope of practice of the licensee who is being monitored or be another health care professional if no monitor with like scope of practice is available.

The worksite monitor shall have an active unrestricted license, with no disciplinary action within the last five (5) years.

The worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and agrees to monitor the licensee as set forth by the Board.

The worksite monitor must adhere to the following required methods of monitoring the licensee:

a) Have face-to-face contact with the licensee in the work environment on as frequent a basis as determined by the Board, but at least once per week.
b) Interview other staff in the office regarding the licensee's behavior, if applicable.
c) Review the licensee's work attendance.

Reporting by the worksite monitor to the Board shall be as follows:

Any suspected substance abuse must be orally reported to the Board and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the Board's normal business hours, the oral report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include: the licensee's name; license number; worksite monitor's name and signature; worksite monitor's license number; worksite location(s); dates licensee had face-to-face contact with monitor; worksite staff interviewed, if applicable; attendance report; any change in behavior and/or personal habits; any indicators of substance abuse.

The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the Board to allow the Board to communicate with the worksite monitor.

Major and Minor Violations

If a licensee commits a major violation, the Board shall order the licensee immediately to cease any practice of occupational therapy, immediately contact the licensee to inform him or her that he or she has been ordered to cease practice and that he or she may not practice unless notified by the Board, and refer the matter for disciplinary action or other action as determined by the Board.

Major Violations include, but are not limited to, the following:

1. Failure to complete a board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Committing multiple minor violations of probation conditions and terms;
4. Treating a patient while under the influence of drugs or alcohol;
5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code, or other state or federal law;
6. Failure to obtain biological testing for substance abuse when ordered;
7. Testing positive for a banned substance;
8. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

If a licensee commits a minor violation, the Board shall determine what action is appropriate.

Minor Violations include, but are not limited to, the following:

1. Failure to submit required documentation in a timely manner;
2. Unexcused attendance at required meetings;

3. Failure to contact a monitor as required;
4. Any other violations that do not present an immediate threat to the licensee or to the public.

DRUG TESTING STANDARDS

If a licensee tests positive for a banned substance, the Board shall order that the licensee immediately cease any practice of occupational therapy, and immediately contact the licensee to inform him or her that he or she has been ordered to cease practice and that he or she may not practice until the Board determines that he or she is able to safely practice. The Board shall also immediately notify the licensee's employer that the licensee has been ordered to cease practice, and that he or she may not practice until the Board determines that he or she is able to safely practice.

The following drug testing standards shall apply to each licensee subject to drug testing:

1. Licensees shall be randomly drug tested at least 104 times per year for the first year or probation, and at any time as directed by the board. After the first year, licensees who are practicing, shall be randomly drug tested at least 50 times per year, and at any time as directed by the board.

2. Drug testing may be required on any day, including weekends and holidays.

3. Except as directed, the scheduling of drug tests shall be done on a random basis, preferably by a computer program.

4. Licensees shall be required to make daily contact as directed to determine if drug testing is required.

5. Licensees shall be drug tested on the date of notification as directed by the board.

6. Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation.

7. Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.

8. Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.

9. Collection of specimens shall be observed.

10. Prior to vacation or absence, alternative drug testing location(s) must be approved by the board.

11. Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven (7) days of receipt of the specimen. The Board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.

DISCIPLINARY GUIDELINES

I. INTRODUCTION

To establish consistency in disciplinary penalties for similar offenses on a statewide basis, the California Board of Occupational Therapy (Board) has adopted these uniform disciplinary guidelines for particular violations. This document, designed for use by attorney's, administrative law judges, occupational therapists, occupational therapy assistants, others involved in the disciplinary process, and ultimately the Board, may be revised from time to time and shall be distributed to interested parties upon request.

These guidelines include general factors to be considered, probationary terms, and guidelines for specific offenses. The guidelines for specific offenses reference the applicable statutory and regulatory provision(s).

For purposes of this document, the term "license" includes the occupational therapy license and the occupational therapy assistant certificate. The terms and conditions of probation are divided into two general categories:

(1) Standard Conditions are those conditions of probation which will generally appear in all cases involving probation as a standard term and condition; and
(2) Optional Conditions are those conditions which address the specific circumstances of the case and require discretion to be exercised depending on the nature and circumstances of a particular case.

Except as provided in the Uniform Standards Related to Substance Abuse, the Board recognizes that these recommended penalties and conditions of probation are merely guidelines and that mitigating or aggravating circumstances and other factors may necessitate deviations, as discussed herein. If there are deviations from the guidelines, the Board requests that the Administrative Law Judge hearing the matter include an explanation in the Proposed Decision so that the circumstances can be better understood and evaluated by the Board upon review of the Proposed Decision and before final action is taken.

II. GENERAL CONSIDERATIONS

The Board requests that Proposed Decisions following administrative hearings include the following:
a. Specific code sections violated with their definitions.
b. Clear description of the violation.
c. Respondent's explanation of the violation if he/she is present at the hearing.
d. Findings regarding aggravation, mitigation, and rehabilitation where appropriate.
e. When suspension or probation is ordered, the Board requests that the disciplinary order include terms within the recommended guidelines for that offense unless the reason for departure from the recommended terms is clearly set forth in the findings and supported by the evidence.

Factors to be Considered - In determining whether revocation, suspension or probation is to be imposed in a given case, factors such as the following should be considered:

1. Nature and severity of the act(s), offense(s), or crime(s) under consideration.
2. Actual or potential harm to any consumer, client or the general public.
3. Prior disciplinary record.
4. Number and/or variety of current violations.
5. Mitigation evidence.
6. Rehabilitation evidence.
7. In the case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.
8. Overall criminal record.
9. Time passed since the act(s) or offense(s) occurred.
10. Whether or not the respondent cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
11. Recognition by respondent of his or her wrongdoing and demonstration of corrective action to prevent recurrence.

III. DEFINITION OF PENALTIES

Revocation: Loss of a license as the result of any one (1) or more violations of the Occupational Therapy Practice Act. Revocation of a license is permanent, unless the respondent takes affirmative action to petition the Board for reinstatement of his/her license and demonstrates to the Board's satisfaction that he/she is rehabilitated.

Suspension: Invalidation of a license for a fixed period of time, not to exceed one (1) year.

Stayed Revocation: Revocation of a license, held in abeyance pending respondent's compliance with the terms of his/her probation.

Stayed Suspension: Suspension of a license, held in abeyance pending respondent's compliance with the terms of his/her probation.

Probation: A period during which a respondent's discipline is stayed in exchange for respondent's compliance with specified conditions relating to improving his/her conduct or preventing the likelihood of a recurrence of the violation.

IV. DISCIPLINARY GUIDELINES

The offenses are listed by statute number in the Business and Professions Code. The standard terms of probation as stated herein shall be included for all probations. The optional conditions of probation as stated herein are to be considered and imposed along with any other optional conditions if facts and circumstances warrant. The number(s) in brackets listed after each condition of probation refers to the conditions listed on pages 15-24.

BUSINESS AND PROFESSIONS CODE SECTIONS – Occupational Therapy Practice Act

Section 2570.23:	**Violation of 2570.3 - Unlicensed Person Engaging in Practice - Sanctions**

Applicant Maximum: Denial of application for a license
Applicant Minimum: Thirty (30) days actual suspension and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#26 and #30]

Section 2570.28(a)(1),(2),or(3): **Unprofessional Conduct – Incompetence, Gross Negligence, Repeated Negligent Acts, Conviction of Practicing Medicine**

Maximum: Revocation
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:
a. Standard conditions [#1- #13]
b. Optional conditions [#23, #25, #26, #28, #30]

Section 2570.28(a)(4): **Unprofessional Conduct – False Advertising**

Maximum: Revocation
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#26 and #30]

Section 2570.28(a)(5): **Unprofessional Conduct – Discipline by Other Government Agency**

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]

Section 2570.28(b): **Procuring a License by Fraud, Misrepresentation, Mistake**

Maximum: Revocation
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#23, #26, #28]

Section 2570.28(c): **Violating Any Provision of the Occupational Therapy Practice Act or Regulations**

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:

a. Standard conditions [#1-#13]

Section 2570.28(d): **False Statement on Application for License or Renewal**

Maximum: Revocation
Minimum: Stayed revocation, thirty (30) days suspension and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#26 and #30]

Section 2570.28(e): **Conviction of Crime Substantially Related to License**

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#26, #27, #28, #30]

Section 2570.28(f) or (g): **Impersonating an Applicant or Acting as Proxy for Another in an Examination for Licensure, Impersonating a Licensee or Allowing Another Person to Use License**

Maximum: Revocation
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#26 and #30]

Section 2570.28(h): **Committing Fraud, Dishonest or Corrupt Act**

Maximum: Revocation
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#26 and #30]

Section 2570.28(i): Committing Any Act Punishable as Sexually Related Crime

Maximum: Revocation
Minimum: Stayed revocation, ninety (90) days actual suspension and five (5) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional Conditions [#15, #16, #24, #26, #30]

Section 2570.28(j): Using Excessive Force, Mistreating or Abusing Patient

Maximum: Revocation
Minimum: Stayed revocation, ninety (90) days actual suspension and five (5) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#15, #16, #25, #26, 30]

Section 2570.28(k): Falsifying, Making Grossly Incorrect, Inconsistent, or Unintelligible Entries in Patient/Hospital Record

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]

Section 2570.28(l): Changing the Prescription of Physician or Falsifying Verbal or Written Orders

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]

Section 2570.28(m): Failing to Maintain Patient Confidentiality

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]

Section 2570.28(n): Delegating Services that Require License to Unlicensed Person

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]

Section 2570.28(o): **Committing Act that would be Grounds for Denial under Section 480**

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]

Section 2570.28(p): **Failing to Follow Infection Control Guidelines**

Maximum: Revocation
Minimum: Stayed revocation and one (1) year probation on the following conditions:
a. Standard conditions [#1-#13]

Section 2570.29(a): **Obtain, Possess, Administer to Self, Furnish or Administer to Others, Controlled Substance**

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #31]

Section 2570.29(b)(1)(2) or (3): **Use Controlled Substance, Dangerous Drug, Alcohol in Manner Dangerous, Injurious to Self or Others**

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #31]

Section 2570.29(c): **Conviction of Crime Involving Controlled Substance, Dangerous Drug, Alcohol or Falsifying a Record Involving Same**

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #28, #31]

Section 2570.29(d): **Committed or Confined by Court for Intemperate Use of Controlled Substance, Dangerous Drug, Alcohol**

	Maximum:	Revocation
	Minimum:	Stayed revocation and three (3) years probation on the following conditions: a. Standard conditions [#1-#13] b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #28, #31]
Section 2570.29(e):		**Falsify, Make Grossly Incorrect, Inconsistent, or Unintelligible Entries in Hospital/Patient Record involving Controlled Substance or Dangerous Drug**
	Maximum:	Revocation
	Minimum:	Stayed revocation and three (3) years probation on the following conditions: a. Standard conditions [#1-#13] b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #31]

GENERAL PROVISIONS OF BUSINESS AND PROFESSIONS CODE

Section 119:		**Misdemeanor Pertaining to Use of a License**
	Maximum:	Revocation
	Minimum:	Stayed revocation and one (1) year probation on the following conditions: a. Standard conditions [#1-#13]
Section 125:		**Misdemeanor Pertaining to Conspiring with Unlicensed Person for Use of a License**
	Maximum:	Revocation
	Minimum:	Stayed revocation and one (1) year probation on the following conditions: a. Standard conditions [#1-#13]
Section 125.6:	**Discrimination by Licensee**	
	Maximum:	Revocation
	Minimum:	Stayed revocation and one (1) year probation on the following conditions: a. Standard conditions [#1-#13]

Section 480 (a): **Denial of Licenses**

Maximum/Minimum: Denial of license

Section 480(c): **Denial of Licenses**

Maximum/Minimum: Denial of license

Section 496: Subversion of Licensing Examinations or Administration of Examinations.

Maximum: Denial or revocation of license
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#23, #26, #30]

Section 726: **Sexual Abuse, Misconduct, or Relations with a Patient or Client**

Maximum: Revocation
Minimum: Stayed revocation and one (1) year probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#25, #26, #30]

Section 730: **Performing Medical Evaluation Without Certification**

Maximum: Revocation
Minimum: Stayed revocation and one (1) year probation on the following conditions:
a. Standard conditions [#1-#13]

Section 810: **Fraudulent Claims**

Maximum: Revocation
Minimum: Stayed revocation and one (1) year probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#26, #27, #30]

V. STANDARD CONDITIONS OF PROBATION
(to be included in all cases of probation)

1. Obey All Laws
Respondent shall obey all federal, state and local laws and regulations governing the practice of occupational therapy in California. Respondent shall submit, in writing, a full detailed account of any and all violations of the law to the Board within five (5) days of occurrence.

2. Compliance with Probation and Quarterly Reporting
Respondent shall fully comply with the terms and conditions of probation established by the Board and shall cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with probation. Respondent, within ten (10) days of completion of the quarter, shall submit quarterly written reports to the Board on a form obtained from the Board (Quarterly Written Report, rev. 4/2011).

3. Personal Appearances
Upon reasonable notice by the Board, respondent shall report to and make personal appearances at times and locations as the Board may direct.

4. Notification of Address and Telephone Number Change(s)
Respondent shall notify the Board, in writing, within five (5) days of a change of residence or mailing address, of his/her new address and any change in work and/or home telephone numbers.

5. Tolling for Out-of-State Practice, Residence or Extension of Probation for In-State Non-Practice
In the event respondent should leave California to reside or to practice outside the State for more than thirty (30) days, respondent shall notify the Board or its designee in writing within five (5) days of the dates of departure and return. All provisions of probation other than the quarterly report requirements, examination requirements, and education requirements, shall be held in abeyance until respondent resumes practice in California. All provisions of probation shall recommence on the effective date of resumption of practice in California, and the period of probation shall be extended for the period of time respondent was out of state.

Unless by Board order, in the event respondent is not engaging in the practice of occupational therapy while residing in California, respondent shall notify the Board or its designee in writing within five (5) days of the dates of cessation of practice and expected return to practice. All provisions of probation shall remain in effect, and the period of probation shall be extended for the period of time respondent was not engaged in the practice of occupational therapy as required by other employment requirement of this order.

6. Notification to Employer(s)
When currently employed, applying for employment in any capacity, or contracted to provide occupational therapy services. Respondent shall provide a copy of the Board's Decision to each employer, supervisor, or contractor no later than the effective date of the Decision. Respondent shall notify any prospective employer, supervisor, or contractor of his/her probationary status with the Board prior to accepting such employment. This notification shall include a copy of the Board's Accusation, Statement of Issues, Stipulated Settlement, or Disciplinary Decision (whichever applies).

The respondent shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of all employers, supervisors and contractors and shall inform the Board in writing of the facility or facilities at which the person is providing occupational therapy services and the name(s) of the person(s) to whom the Board's decision was provided.

Respondent shall complete the required consent forms and sign an agreement with the employer and supervisor, or contractor, and the Board, to allow the Board to communicate with the employer and supervisor or contractor regarding issues including but not limited to the licensee's work status, attendance, performance, and on-going monitoring.

Respondent shall cause each employer and supervisor or contractor to submit quarterly reports to the Board. The report shall be on a form provided by the Board, and shall include a performance evaluation and such other information as may be required by the Board (Work Performance Evaluation, rev. 02/2011).

Respondent shall notify the Board, in writing, within five (5) days of any change in employment status. Respondent shall notify the Board, in writing, within five (5) days if he/she is terminated from any occupational therapy or health care related employment with a full explanation of the circumstances surrounding the termination.

7. Employment Requirements and Limitations

During probation, respondent shall work in his/her licensed capacity in the State of California. This practice shall consist of no less than six (6) continuous months and of no less than twenty (20) hours per week.

While on probation, respondent shall not work for a registry or in any private duty position, except as approved, in writing, by the Board. Respondent shall work only on a regularly assigned, identified, and pre-determined work site(s) and shall not work in a float capacity except as approved, in writing, by the Board.

During probation, Respondent shall work in his or her capacity in the State of California. If respondent is unable to secure employment in his or her capacity, or his or her license is temporarily suspended, the period of probation shall be extended for that period of time.

8. Supervision Requirements

Respondent shall obtain approval from the Board when continuing or before commencing any employment, regarding the level of supervision provided to the respondent while employed as an occupational therapist or occupational therapy assistant.

Respondent shall not function as a supervisor during the period of probation except as approved, in writing, by the Board.

9. Continuing Education Requirements

Respondent shall complete continuing education directly relevant to the violation as specified by the Board. Continuing education shall be completed within a period of time designated by the Board, which timeframe shall be incorporated as a condition of this probation.

Continuing education shall be in addition to the professional development activities required for license

renewal. The Board shall notify respondent of the course content and number of contact hours required. Within thirty (30) days of the Board's written notification of the assigned coursework, respondent shall submit a written plan to comply with this requirement. The Board shall approve such plan prior to enrollment in any course of study.

Failure to satisfactorily complete the required continuing education as designated or failure to complete same no later than one year from the date of the Board's written notification shall constitute a violation of probation. Respondent is responsible for all costs of such continuing education. Upon successful completion of the course(s), respondent shall cause the instructor to furnish proof to the Board within thirty (30) days of course completion.

10. Maintenance of Valid License

Respondent shall, at all times while on probation, maintain an active current license with the Board including any period during which license is suspended or probation is tolled.

11. Cost Recovery Requirements

Where an order for recovery of costs is made, respondent shall make timely payment as directed in the Board's Decision pursuant to Business and Professions Code section 125.3. Failure to make payments in accordance with any formal agreement entered into with the Board or pursuant to any Decision by the Board shall be considered a violation of probation.

The Board may conditionally renew or reinstate, for a maximum of one (1) year, the license of any respondent who demonstrates financial hardship. Respondent shall enter into a formal agreement with the Board to reimburse the unpaid costs within that one (1) year period.

Except as provided above, the Board shall not renew or reinstate the license of any respondent who has failed to pay all the costs as directed in a Decision.

12. Violation of Probation

If respondent violates probation in any respect, the Board, after giving respondent notice and opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If an accusation or a petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended, and respondent shall comply with all probation conditions, until the matter is final.

13. Completion of Probation

Upon successful completion of probation, respondent's license will be fully restored.

VI. OPTIONAL CONDITIONS OF PROBATION

14. Examination by a Physician

Within sixty (60) days of the effective date of the Decision, respondent shall submit to a physical examination by a physician and surgeon of his/her choice who meets minimum criteria established by the Board. The physician and surgeon shall be licensed in California and Medical Board Certified in Family Practice, Internal Medicine or a related specialty. The purpose of the examination shall be to determine respondent's ability to safely perform all professional duties with safety to self and to the public. Respondent shall provide the examining physician and surgeon with a copy of the Board's Disciplinary Order prior to the examination. Cost of such examination shall be paid by respondent.

Respondent shall cause the physician and surgeon to complete a written medical report to be submitted directly to the Board within ninety (90) days of the effective date of the Decision. If the examining physician and surgeon finds that respondent is not physically fit to practice safely or can only practice safely with restrictions the physician shall notify the Board, in writing, within five (5) working days. The Board shall notify respondent in writing of the physician's and surgeon's determination of unfitness to practice and shall order the respondent to cease practice or place restrictions on respondent's practice. Respondent shall comply with any order to cease practice or restriction of his or her practice until the Board is satisfied of respondent's fitness to practice safely and has so notified respondent in writing.

15. Psychological Evaluation

Within sixty (60) days of the effective date of the Decision, respondent shall submit to a psychiatric or psychological evaluation. Within twenty (20) days of the effective date of the Decision, Respondent shall submit to the Board the name of one or more proposed evaluators for prior approval by the Board to conduct a psychiatric or psychological evaluation. The evaluation shall be performed by a physician and surgeon licensed in California and Board Certified in Psychiatry, or by a clinical psychologist licensed in California. This evaluation shall be for the purpose of determining respondent's current mental, psychological and emotional fitness to safely perform all professional duties with safety to self and the public. Respondent shall provide the evaluator with a copy of the Board's Disciplinary Order prior to the evaluation. Cost of such evaluation shall be paid by respondent.

Respondent shall cause the evaluator to submit to the Board a written psychological report concerning respondent's status and progress as well as such other information as may be requested by the Board. This report shall be submitted within ninety (90) days from the effective date of the Decision.

If the evaluator finds that respondent is not psychologically fit to practice safely or can only practice safely with restrictions, the evaluator shall orally notify the Board within one (1) working day, and then notify the Board, in writing, within five (5) working days. The Board shall notify the respondent in writing of the evaluator's determination of unfitness to practice and shall order the respondent to cease practice or place restrictions on respondent's practice. Respondent shall comply with any order to cease practice or restriction of his or her practice until the Board is satisfied of respondent's fitness to practice safely and has so notified respondent in writing.

If the evaluator finds that psychotherapy is required, respondent shall participate in a therapeutic program at the Board's discretion. Cost of such therapy shall be paid by respondent.

16. Psychotherapy

Within sixty (60) days of the effective date of the Decision, respondent shall submit to the Board the name of one (1) or more proposed therapists for prior approval. Respondent shall participate in ongoing psychotherapy with a California licensed or legally registered mental health professional approved by the Board. Within ten (10) days of receiving notification of approval by the Board, Respondent shall commence psychotherapy. Respondent shall provide the therapist with a copy of the Board's Disciplinary Order no later than the first counseling session. Counseling shall be at least once a week unless otherwise determined by the Board. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy shall be paid by respondent.

Respondent shall cause the therapist to submit to the Board a written report concerning respondent's psychotherapy status and progress as well as such other information as may be requested by the Board. The initial psychotherapy report shall be submitted within ninety (90) days from the effective date of the Decision. Respondent shall cause the therapist to submit quarterly written reports to the Board concerning respondent's fitness to practice, progress in treatment and to provide such other information as may be required by the Board.

If the therapist finds that respondent is not fit to practice safely, or can only practice safely with restrictions, the therapist shall notify the Board, in writing, within five (5) working days. The Board shall notify respondent in writing of the therapist's determination of unfitness to practice and shall order the respondent to cease practice or place restrictions on respondent's practice. Respondent shall comply with any order to cease practice or restriction of his or her practice until the Board is satisfied of respondent's fitness to practice safely and has so notified respondent in writing.

17. Clinical Diagnostic Evaluation

Within twenty (20) days of the effective date of the Decision and at any time upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed.

Respondent shall cause the evaluator to submit to the Board a written clinical diagnostic evaluation report within ten (10) days from the date the evaluation was completed, unless an extension, not to exceed thirty (30) days, is granted to the evaluator by the Board. Cost of such evaluation shall be paid by the Respondent.

Respondent is ordered to cease any practice of occupational therapy, beginning on the effective date of the Decision, pending the results of the clinical diagnostic evaluation. During this time, Respondent shall submit to random drug testing at least two (2) times per week. At any other time that Respondent is ordered to undergo a clinical diagnostic evaluation, he or she shall be ordered to cease any practice of occupational therapy for minimum of one month pending the results of a clinical diagnostic evaluation and shall, during such time, submit to drug testing at least two (2) times per week.

Upon any order to cease practice, Respondent shall not practice occupational therapy until the Board determines that he or she is able to safely practice either full-time or part-time and has had at least one-month of negative drug test results. Respondent shall comply with any terms or conditions made by the Board as a result of the clinical diagnostic evaluation.

18. Rehabilitation Program

Within thirty (30) days of the effective date of the Decision, respondent shall enter a rehabilitation and monitoring program specified by the Board. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board.

Components of the treatment contract shall be relevant to the violation and to the respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work settings, random bodily fluid or other matter testing, abstention from drugs and alcohol, use of work site monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations and other appropriate rehabilitation or monitoring programs. Cost for participation in this program shall be paid by respondent.

19. Support Groups

19a. Chemical Dependency Support/Recovery Groups

Within five (5) days of the effective date of the Decision, respondent shall begin attendance at a chemical dependency support group (e.g., Alcoholics Anonymous, Narcotics Anonymous), and continue as ordered by the Board or its designee. Verified documentation of attendance shall be submitted by respondent with each quarterly report. Respondent shall continue attendance in such a group for the duration of probation unless notified by the Board that attendance is no longer required.

When determining the frequency of required support group meeting attendance, the board shall give consideration to the following:

- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use;
- the recommendation of the clinical evaluator;
- the scope and pattern of use;
- the licensee's treatment history; and,
- the nature, duration, and severity of substance abuse.

19b. Facilitated Support Group Meetings

Within thirty (30) days of the effective date of the Decision, respondent shall begin attendance at a facilitated support group, and continue as ordered by the Board or its designee. Verified documentation of attendance shall be submitted by respondent with each quarterly report. Respondent shall continue attendance in such a group for the duration of probation unless notified by the Board that attendance is no longer required.

When determining the frequency of required support group meeting attendance, the board shall give consideration to the following:

- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use;
- the recommendation of the clinical evaluator;
- the scope and pattern of use;
- the licensee's treatment history; and,
- the nature, duration, and severity of substance abuse.

Group Meeting Facilitator Qualifications and Requirements:

1. The meeting facilitator must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse and shall be licensed or certified by the state or other nationally certified organization.
2. The meeting facilitator must not have a financial relationship, personal relationship, or business relationship with the licensee in the last five (5) years.
3. The group meeting facilitator shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.
4. The facilitator shall report any unexcused absence within 24 hours.

19c. Group Support/Recovery Meetings

Respondent shall begin and continue attendance at a support/recovery group (e.g., Alcoholics Anonymous, Narcotics Anonymous, or a facilitated group) as ordered by the Board or its designee. When determining the type and frequency of required support group meeting attendance, the board shall give consideration to the following:

- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use;
- the recommendation of the clinical evaluator;
- the scope and pattern of use;
- the licensee's treatment history; and,
- the nature, duration, and severity of substance abuse.

Verified documentation of attendance shall be submitted by respondent with each quarterly report. Respondent shall continue attendance in such a group for the duration of probation unless notified by the Board that attendance is no longer required.

If a facilitated group meeting is ordered, the group facilitator shall meet the following qualifications and requirements:

a. The meeting facilitator must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse and shall be licensed or certified by the state or other nationally certified organization.
b. The meeting facilitator must not have a financial relationship, personal relationship, or business relationship with the licensee in the last five (5) years.
c. The group meeting facilitator shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.
d. The facilitator shall report any unexcused absence within 24 hours.

NOTE TO ALJ: *Condition 19c is not necessary if 19a or 19b is ordered.*

20. Abstain from Controlled Substances

Respondent shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in sections 4021 and 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bona fide illness or condition. If under such prescription, Respondent shall cause to have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the Respondent's

prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

21. Abstain from use of Alcohol
Respondent shall completely abstain from the intake of alcohol during the period of probation.

22. Submit Biological Fluid or Specimen Samples
Respondent shall immediately submit to random and directed alcohol and/or drug testing, at respondent's cost, upon request by the Board or its designee. The Respondent shall be subject to a minimum of one-hundred and four (104) random tests per year within the first year of probation, and a minimum of fifty (50) random tests per year thereafter, for the duration of the probationary term. If Respondent tests positive for a banned substance, Respondent shall be ordered by the Board to immediately cease any practice of occupational therapy, and may not practice unless and until notified by the Board. Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit to his or her drug test on the same day that he or she is notified that a test is required. All alternative testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

23. Take and Pass the Licensure Examination
Respondent shall take and pass the licensure examination currently required of new applicants for the license possessed by respondent. Respondent shall pay the established examination fees.

As a condition precedent to reinstatement of a license, respondent shall take and pass the licensure examination currently required of new applicants prior to resuming practice. Respondent shall pay the established examination and licensing fees.

All standard terms or other terms of probation shall be tolled until the respondent has successfully passed the licensure examination and notice of licensure has been mailed to respondent by the Board.

24. Worksite Monitor
Respondent shall submit the name of the proposed worksite monitor within 20 days of the effective date of the Decision. Respondent shall complete any required consent forms and sign an agreement with the worksite monitor and the Board regarding the Respondent and the worksite monitor's requirements and reporting responsibilities. Once a worksite monitor is approved, Respondent may not practice unless the monitor is present at the worksite. If the worksite monitor terminates the agreement with the Board and the Respondent, the Respondent shall not resume practice until another worksite monitor is approved by the Board.

Reporting by the worksite monitor to the board shall be as follows:
Any suspected substance abuse must be orally reported to the Board and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the Board's normal business hours, the oral report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include: the licensee's name; license number; worksite monitor's name and signature;

worksite monitor's license number; worksite location(s); dates licensee had face-to-face contact with monitor; worksite staff interviewed, if applicable; attendance report; any change in behavior and/or personal habits; any indicators of substance abuse.

The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the Board to allow the Board to communicate with the worksite monitor.

25. Restriction on Licensed Practice
Respondent shall practice only with a specified client population, in a specified practice setting, or engage in limited occupational therapy services. These restrictions shall be specifically defined in the Decision and be appropriate to the violation. Respondent shall be required to document compliance in a manner required by the Board.

26. Suspension
Respondent is suspended from the practice of occupational therapy for _____ days beginning on the effective date of the Decision. Respondent shall be responsible for informing his or her employer of the Board's decision and the reasons for the length of suspension.

27. Restitution
Within _____ days of the effective date of this Decision, respondent shall make restitution to _____ in the amount of $_____ and shall provide the Board with proof from _____ attesting that the full restitution has been paid. In all cases, restitution shall be made before the termination of probation.

28. Criminal Probation Reports
Respondent shall provide the Board with a copy of the standard conditions of the criminal probation, copies of all criminal probation reports and the name of his/her probation officer.

29. Relinquish License and Wall Certificate
Respondent shall relinquish and shall forward or deliver the license to practice and the wall certificate to the Board within ten (10) days of the effective date of the Decision and order.

30. Notification to Clients/Cessation of Practice
In orders that provide for a cessation or suspension of practice, respondent shall comply with procedures provided by the Board regarding notification to, and management of, clients.

31. Request for Modification

"Request" as used in this standard is a request made to the Board's designee, and is not under the Administrative Procedure Act.

The licensee shall demonstrate that he or she has met the following criteria before being granted a request to modify a practice restriction ordered by the Board:
a. Demonstrated sustained compliance with current recovery program.
b. Demonstrated the ability to practice safely as evidenced by current work site reports, evaluations, and any other information relating to the licensee's substance abuse.
c. Negative alcohol and drug screening reports for at least six (6) months, two (2) positive worksite monitor reports, and complete compliance with other terms and conditions of the program.

VII. REHABILITATION CRITERIA

When considering the denial of an occupational therapy practitioner license under section 480 of the Business and Professions Code, the Board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a license will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial, which also could be considered as grounds for denial under section 480 of the Business and Professions Code.
(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
(5) Evidence, if any, of rehabilitation submitted by the applicant.

When considering the suspension or revocation of the license of an occupational therapy practitioner on the grounds that the person licensed has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his/her present eligibility for a license, shall consider the following criteria:

(1) The nature and severity of the act(s) or offense(s).
(2) Total criminal record.
(3) The time that has elapsed since commission of the act(s) or offense(s).
(4) The extent to which the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
(5) If applicable, evidence of expungement proceedings pursuant to section 1203.4 of the Penal Code.
(6) Evidence, if any, of rehabilitation submitted by the licensee.

VIII. PETITION FOR REINSTATEMENT/REDUCTION IN PENALTY

When considering a petition for reinstatement of the license or a petition for reduction in penalty, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria specified in section VII. above.

RECOMMENDED LANGUAGE FOR ISSUANCE AND PLACEMENT OF A LICENSE ON PROBATION AND REINSTATEMENT OF LICENSE [Reserved]

Executive Officer's report.

The Executive Officer's report and its attachments are included for review. Attachments to the report include the following:

1. Expenditure and Revenue reports through December 31, 2011;
2. Attorney General Expenditure report through December 31, 2011;
3. Historical Fund Conditions
4. Performance Measurements for the following periods:
    a. July 2010 – June 2011 Annual Report
    b. July 2011 – September 2011 (Q1)
    c. October 2011 – December 2011 (Q2)
5. Newly printed Strategic Plan

Date: March 14, 2012

To: CBOT Board Members

From: Heather Martin

Subject: Executive Officer Report – March 2012 Board Meeting

Attached to this report are the following:

1. Revenue and Expenditure reports through December 31, 2011;
2. Attorney General Expenditure report through December 31, 2011;
3. Historical Fund Conditions
4. Performance Measurements for the following periods:
    a. July 2010 – June 2011 Annual Report
    b. July 2011 – September 2011 (Q1)
    c. October 2011 – December 2011 (Q2)
5. Newly printed Strategic Plan

Future Board meeting dates/locations are as follow:

Date	Location
June 27-28, 2012	DCA Hearing Room, Sacramento
November 8, 2012	Conference Room, San Jose State University

Budget

Our budget for fiscal year (FY) 2011/12 is $1.4m and our estimated revenue is $980k. Through December 31, 2011, we have spent approximately 45% of our budget and earned nearly 60% of our projected revenue. *(See attachment 1)*

Of particular interest is the Attorney General expenditure through December 31, 2011. *(See attachment 2)* The budget is only $133,243 and $95,173 has been spent halfway through the FY; or, slightly over 70% of our annual budget. We plan to 'underspend' enough money to cover the increase in AG, OAH and court reporter costs. However, should there be insufficient monies left over, we will prepare a deficiency request asking the Department of Finance (DOF) to augment our budget to cover the AG and OAH line items.

For several years we have under-spent our authorized budget which has helped us to 'revert' money; thus has a positive effect on our fund condition.

Three fund conditions (FC) have been provided to demonstrate how fluid the budget the process is and what can be achieved when under-spending. *(See attachment 3)*

The first FC shows estimates as of March 2011.
The second FC shows estimates as of March 2012, including repayment of an outstanding general fund (GF) loan in the amount of $640k in FY 2011/12.
The third FC shows estimates as of March 2012, including repayment of an outstanding general fund (GF) loan in the amount of $640k in FY 2012/13.

Depending upon the current year revenue and expenditures, DOF may require the GF loan be repaid in in 2012/13 rather than this year.

Staff
The Board currently has 11 staff, and 2.0 limited term positions that will be left unfilled as they expire September 30, 2012. All permanent positions are filled and, as of now, there are no plans for requesting additional staff.

BreEZe Project (formerly I-Licensing Project):
The BrEZe project is on schedule; our May 2013 deployment remains unchanged. We'll have more information about the ability to accept payments by credit/debit card for license renewals later this year. There will plenty of time to let our licensees know of this new feature. (More information relating to our portion of that cost will be available in the future.)

Regulations
There are several regulatory proposals that the Board has approved (and are not mentioned in the regulations report). We estimate we will begin the rule-making process this Fall (or upon completion of the Sunset report).

The approved (but not-yet-noticed) regulatory proposals are as follows:

Topic	Section(s) Affected
Retired Status	Add new and renumber existing
Continuing Competency	4161
Ethical Standards of Practice	4170

Also, there are several proposals that are in progress and will be presented to the Board for approval at a future meeting, including:

Topic	Section(s) Affected
Disciplinary Guidelines (2012)	4147
Citations	4144
Notification to Consumers	4171
Provide mechanism for OT to request to supervise more than 2 OTAs	New

Strategic Plan:
Attached is the revised 2011-2014 Strategic Plan printed by DCA's Office of Publications, Design and Editing. Copies will be mailed to all OT/OTA programs in CA and all Committee members so that the Board's goals and objectives can be considered when the Committees meet to consider and evaluate items. A printable PDF is also on the Board's website.

DEPT OF CONSUMER AFFAIRS - REGULATORY BOARDS
RECEIPTS BY ORGANIZATION AND SOURCE
AS OF 12/31/11

ENY: 11 FFY: 11
SECTION: 11 CA BD OF OCCUPATIONAL THERAPY
SUB-SECTION: 00
UNIT: 00
SUB-UNIT: 00
SUB-SUB-UNIT: 00
INDEX: 1475 CA BD OF OCCUPATIONAL THERAPY

PROGRAM
PG EL CMP TSK PCA DESCRIPTION

REF	SOURCE	ASRC	DESCRIPTION	PLANNED RECEIPTS	ACTUAL RECEIPTS CURRENT MONTH	ACTUAL RECEIPTS YEAR-TO-DATE	BALANCE
67 00 000 000 73017 REIMB - CA BD OF OCCUPATIONAL THERAPY							
001	991937	01	FINGERPRINT REPORTS	22,000.00	1,581.00	8,415.00	13,585.00
001	991937	02	EXTERNAL/PRIVATE/GRANT	0.00	705.00	4,025.00	4,025.00-
*TOTAL SOURCE 991937				22,000.00	2,286.00	12,440.00	9,560.00
*TOTAL PROG 67				22,000.00	2,286.00	12,440.00	9,560.00
*TOTAL REFERENCE 001				22,000.00	2,286.00	12,440.00	9,560.00
67 00 000 000 83017 REVENUE CA BD OF OCCUPATIONAL THERAPY							
980	125600	CU	OTA DUP LIC FEE-$15.00	0.00	105.00	1,035.00	1,035.00-
980	125600	CV	OTA DUP CERT FEES-$15.00	0.00	105.00	240.00	240.00-
980	125600	FT	CITATION/FINE FTB COLLECTION	0.00	50.00	50.00	50.00-
980	125600	00	OTHER REGULATORY FEES	34,000.00	0.00	0.00	34,000.00
980	125600	18	CITATION & FINE FEE COLLECTED-VAR	0.00	2,173.00	9,817.00	9,817.00-
*TOTAL SOURCE 125600				34,000.00	2,433.00	11,142.00	22,858.00
980	125700	OC	OT INITIAL LIC FEE-$VAR	0.00	6,260.00	51,424.00	51,424.00-
980	125700	OD	OTA INITIAL CERT FEE-$VAR	0.00	647.00	11,384.00	11,384.00-
980	125700	OE	OT LIMITED PERMIT-$75.00	0.00	150.00	2,550.00	2,550.00-
980	125700	OJ	OTA LIMITED PERMIT $75.00	0.00	0.00	600.00	600.00-
980	125700	00	OTHER REGULATORY LICENSES AND PER	128,000.00	0.00	0.00	128,000.00
980	125700	90	OVER/SHORT FEES	0.00	55.00	228.00	228.00-
980	125700	91	SUSPENDED REVENUE	0.00	0.00	225.00	225.00-
980	125700	92	PRIOR YEAR REVENUE ADJUSTMENT	0.00	0.00	287.00-	287.00
*TOTAL SOURCE 125700				128,000.00	7,112.00	66,124.00	61,876.00
980	125800	BM	OT ANNUAL RENEWAL FEE- $150.00	0.00	0.00	150.00	150.00-
980	125800	BP	OT INACTIVE RENEWAL LIC FEE-$25.0	0.00	500.00	3,850.00	3,850.00-
980	125800	BQ	OTA INACTIVE RENEWAL CERT FEE-$25	0.00	75.00	700.00	700.00-
980	125800	C1	AUTOMATED REVENUE REFUND CLAIM	0.00	740.00	1,450.00	1,450.00-

DEPT OF CONSUMER AFFAIRS - REGULATORY BOARDS
RECEIPTS BY ORGANIZATION AND SOURCE
AS OF 12/31/11

ENY: 11 FFY: 11
SECTION: 11 CA BD OF OCCUPATIONAL THERAPY
SUB-SECTION: 00
UNIT: 00
SUB-UNIT: 00
SUB-SUB-UNIT: 00
INDEX: 1475 CA BD OF OCCUPATIONAL THERAPY

PROGRAM
PG EL CMP TSK PCA DESCRIPTION

REF	SOURCE	ASRC	DESCRIPTION	PLANNED RECEIPTS	ACTUAL RECEIPTS CURRENT MONTH	ACTUAL RECEIPTS YEAR-TO-DATE	BALANCE
980	125800	00	RENEWAL FEES	756,000.00	0.00	0.00	756,000.00
980	125800	2W	BIENNIAL RENEWAL-OT $150	0.00	43,950.00	404,850.00	404,850.00-
980	125800	2X	BIENNIAL RENEWAL-OTA $150	0.00	6,450.00	67,650.00	67,650.00-
980	125800	90	OVER/SHORT FEES	0.00	0.00	5.00	5.00-
*TOTAL SOURCE 125800				756,000.00	51,715.00	478,655.00	277,345.00
980	125900	A4	OT DELINQ RENEWAL FEE-$75.00	0.00	0.00	75.00	75.00-
980	125900	TM	DELINQ BIENNIAL-OT $75	0.00	900.00	5,400.00	5,400.00-
980	125900	TN	DELINQ BIENNIAL-OTA $75	0.00	75.00	750.00	750.00-
980	125900	00	DELINQUENT FEES	16,000.00	0.00	0.00	16,000.00
*TOTAL SOURCE 125900				16,000.00	975.00	6,225.00	9,775.00
980	142500	00	MISCELLANEOUS SERVICES TO THE PUB	7,000.00	0.00	0.00	7,000.00
980	142500	90	MISC. SER TO PUBLIC - GENERAL	0.00	405.00	3,810.00	3,810.00-
*TOTAL SOURCE 142500				7,000.00	405.00	3,810.00	3,190.00
980	150300	00	INCOME FROM SURPLUS MONEY INVESTM	4,000.00	0.00	938.78	3,061.22
*TOTAL SOURCE 150300				4,000.00	0.00	938.78	3,061.22
980	161000	00	ESCHEAT OF UNCLAIMED CHECKS,WARRA	1,000.00	0.00	0.00	1,000.00
980	161000	02	REVENUE CANCELLED WARRANTS	0.00	0.00	412.00	412.00-
*TOTAL SOURCE 161000				1,000.00	0.00	412.00	588.00
980	161400	91	DISHONORED CHECK FEE-VAR	0.00	125.00	250.00	250.00-
*TOTAL SOURCE 161400				0.00	125.00	250.00	250.00-

DEPT OF CONSUMER AFFAIRS - REGULATORY BOARDS
RECEIPTS BY ORGANIZATION AND SOURCE
AS OF 12/31/11

ENY: 11 FFY: 11
SECTION: 11 CA BD OF OCCUPATIONAL THERAPY
SUB-SECTION: 00
UNIT: 00
SUB-UNIT: 00
SUB-SUB-UNIT: 00
INDEX: 1475 CA BD OF OCCUPATIONAL THERAPY

PROGRAM
PG EL CMP TSK PCA DESCRIPTION

REF	SOURCE	ASRC	DESCRIPTION	PLANNED RECEIPTS	ACTUAL RECEIPTS CURRENT MONTH	ACTUAL RECEIPTS YEAR-TO-DATE	BALANCE
980	164300	00	PENALTY ASSESSMENTS	12,000.00	0.00	0.00	12,000.00
980	164300	99	PENALTY ASSESSMENTS	0.00	1,973.75	7,603.98	7,603.98-
*TOTAL SOURCE 164300				12,000.00	1,973.75	7,603.98	4,396.02
*TOTAL PROG 67				958,000.00	64,738.75	575,160.76	382,839.24
*TOTAL REFERENCE 980				958,000.00	64,738.75	575,160.76	382,839.24
*TOTAL INDEX 1475				980,000.00	67,024.75	587,600.76	392,399.24
*TOTAL SEC 11				980,000.00	67,024.75	587,600.76	392,399.24

DEPARTMENT OF CONSUMER AFFAIRS

CA BD OF OCCUPATIONAL THERAPY

BUDGET REPORT

AS OF 12/31/2011

FM 06

CA BD OF OCCUPATIONAL THERAPY

	DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
PERSONAL SERVICES								
SALARIES AND WAGES								
003 00	CIVIL SERVICE-PERM	462,563	23,995	139,651	0	139,651	322,912	
033 04	TEMP HELP (907)	4,000	5,036	27,744	0	27,744	(23,744)	
063 00	STATUTORY-EXEMPT	72,571	6,182	35,835	0	35,835	36,736	
063 01	BD/COMMSN (901,920)	20,000	0	0	0	0	20,000	
TOTAL SALARIES AND WAGES		**559,134**	**35,214**	**203,230**	**0**	**203,230**	**355,904**	**63.65%**
STAFF BENEFITS								
103 00	OASDI	44,719	2,022	11,763	0	11,763	32,956	
104 00	DENTAL INSURANCE	206	172	1,024	0	1,024	(818)	
105 00	HEALTH/WELFARE INS	112,913	2,825	16,372	0	16,372	96,541	
106 01	RETIREMENT	91,022	5,588	32,296	0	32,296	58,726	
125 00	WORKERS' COMPENSATIO	15,013	0	0	0	0	15,013	
125 15	SCIF ALLOCATION COST	0	273	1,718	0	1,718	(1,718)	
133 00	UNEMPLOYMENT INSURAN	0	0	2,450	0	2,450	(2,450)	
134 00	OTHER-STAFF BENEFITS	0	2,318	13,523	0	13,523	(13,523)	
134 01	TRANSIT DISCOUNT	0	0	65	0	65	(65)	
135 00	LIFE INSURANCE	0	13	77	0	77	(77)	
136 00	VISION CARE	44	52	311	0	311	(267)	
137 00	MEDICARE TAXATION	160	499	2,890	0	2,890	(2,730)	
TOTAL STAFF BENEFITS		**264,077**	**13,762**	**82,488**	**0**	**82,488**	**181,589**	**68.76%**
SALARY SAVINGS								
141 00	SALARY SAVINGS	(33,769)	0	0	0	0	(33,769)	
TOTAL SALARY SAVINGS		**(33,769)**	**0**	**0**	**0**	**0**	**(33,769)**	**100.00%**
TOTAL PERSONAL SERVICES		**789,442**	**48,976**	**285,719**	**0**	**285,719**	**503,723**	**63.81%**
OPERATING EXPENSES & EQUIPMENT								
FINGERPRINTS								
213 04	FINGERPRINT REPORTS	22,000	1,326	7,242	0	7,242	14,758	
TOTAL FINGERPRINTS		**22,000**	**1,326**	**7,242**	**0**	**7,242**	**14,758**	**67.08%**
GENERAL EXPENSE								
201 00	GENERAL EXPENSE	29,622	0	0	0	0	29,622	
206 00	MISC OFFICE SUPPLIES	0	292	1,122	0	1,122	(1,122)	
207 00	FREIGHT & DRAYAGE	0	0	292	0	292	(292)	

CA BD OF OCCUPATIONAL THERAPY

	DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
213 02	ADMIN OVERHEAD-OTHR	0	21	1,526	0	1,526	(1,526)	
223 00	LIBRARY PURCH/SUBSCR	0	1,053	1,053	0	1,053	(1,053)	
TOTAL GENERAL EXPENSE		**29,622**	**1,366**	**3,994**	**0**	**3,994**	**25,629**	**86.52%**
PRINTING								
241 00	PRINTING	12,187	0	0	0	0	12,187	
242 02	REPRODUCTION SVS	0	0	11	0	11	(11)	
244 00	OFFICE COPIER EXP	0	281	563	1,651	2,214	(2,214)	
TOTAL PRINTING		**12,187**	**281**	**574**	**1,651**	**2,225**	**9,962**	**81.74%**
COMMUNICATIONS								
251 00	COMMUNICATIONS	13,582	0	0	0	0	13,582	
252 00	CELL PHONES,PDA,PAGE	0	35	202	0	202	(202)	
257 01	TELEPHONE EXCHANGE	0	311	1,994	0	1,994	(1,994)	
TOTAL COMMUNICATIONS		**13,582**	**346**	**2,195**	**0**	**2,195**	**11,387**	**83.84%**
POSTAGE								
261 00	POSTAGE	27,908	0	0	0	0	27,908	
262 00	STAMPS, STAMP ENVEL	0	1,140	1,196	0	1,196	(1,196)	
263 05	ALLOCATED POSTAGE-DC	0	610	4,596	0	4,596	(4,596)	
263 06	ALLOCATED POSTAGE-ED	0	401	2,813	0	2,813	(2,813)	
TOTAL POSTAGE		**27,908**	**2,151**	**8,606**	**0**	**8,606**	**19,302**	**69.16%**
TRAVEL: IN-STATE								
291 00	TRAVEL: IN-STATE	21,581	0	0	0	0	21,581	
292 00	PER DIEM-I/S	0	153	2,083	0	2,083	(2,083)	
294 00	COMMERCIAL AIR-I/S	0	1,127	4,101	0	4,101	(4,101)	
296 00	PRIVATE CAR-I/S	0	33	935	0	935	(935)	
297 00	RENTAL CAR-I/S	0	74	142	0	142	(142)	
TOTAL TRAVEL: IN-STATE		**21,581**	**1,387**	**7,261**	**0**	**7,261**	**14,320**	**66.36%**
TRAINING								
331 00	TRAINING	13,159	0	0	0	0	13,159	
332 00	TUITN/REGISTRATN FEE	0	0	540	0	540	(540)	
TOTAL TRAINING		**13,159**	**0**	**540**	**0**	**540**	**12,619**	**95.90%**
FACILITIES OPERATIONS								
341 00	FACILITIES OPERATION	50,942	0	0	0	0	50,942	
343 00	RENT-BLDG/GRND(NON S	0	4,457	26,448	26,229	52,677	(52,677)	
347 00	FACILITY PLNG-DGS	0	83	411	0	411	(411)	

CA BD OF OCCUPATIONAL THERAPY

	DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
TOTAL FACILITIES OPERATIONS		**50,942**	**4,540**	**26,859**	**26,229**	**53,088**	**(2,146)**	**-4.21%**
DEPARTMENTAL SERVICES								
424 03	OIS PRO RATA	80,359	11,549	41,098	0	41,098	39,261	
427 00	INDIRECT DISTRB COST	94,602	9,602	46,383	0	46,383	48,219	
427 01	INTERAGENCY SERVS	105	0	0	0	0	105	
427 30	DOI - PRO RATA	3,816	613	1,908	0	1,908	1,908	
427 34	PUBLIC AFFAIRS PRO R	6,477	629	3,239	0	3,239	3,238	
427 35	CCED PRO RATA	6,749	1,782	3,374	0	3,374	3,375	
TOTAL DEPARTMENTAL SERVICES		**192,108**	**24,175**	**96,002**	**0**	**96,002**	**96,106**	**50.03%**
CONSOLIDATED DATA CENTERS								
428 00	CONSOLIDATED DATA CE	0	20	245	0	245	(245)	
TOTAL CONSOLIDATED DATA CENTERS		**0**	**20**	**245**	**0**	**245**	**(245)**	**0.00%**
DATA PROCESSING								
431 00	INFORMATION TECHNOLO	5,125	0	0	0	0	5,125	
436 00	SUPPLIES-IT (PAPER,	0	559	559	0	559	(559)	
TOTAL DATA PROCESSING		**5,125**	**559**	**559**	**0**	**559**	**4,566**	**89.08%**
CENTRAL ADMINISTRATIVE SERVICES								
438 00	PRO RATA	72,357	0	36,179	0	36,179	36,179	
TOTAL CENTRAL ADMINISTRATIVE SERVICES		**72,357**	**0**	**36,179**	**0**	**36,179**	**36,179**	**50.00%**
EXAMINATIONS								
404 03	C/P SVS - EXT SUB MA	0	171	846	0	846	(846)	
TOTAL EXAMINATIONS		**0**	**171**	**846**	**0**	**846**	**(846)**	**0.00%**
ENFORCEMENT								
396 00	ATTORNEY GENL-INTERD	133,243	9,908	95,173	0	95,173	38,071	
397 00	OFC ADMIN HEARNG-INT	1,000	6,910	16,740	0	16,740	(15,740)	
414 31	EVIDENCE/WITNESS FEE	0	1,078	3,780	0	3,780	(3,780)	
414 34	EVIDENCE	0	50	50	0	50	(50)	
418 97	COURT REPORTER SERVS	0	0	1,195	0	1,195	(1,195)	
427 31	DOI - INVESTIGATION	73,221	23,647	36,611	0	36,611	36,610	
TOTAL ENFORCEMENT		**207,464**	**41,593**	**153,548**	**0**	**153,548**	**53,916**	**25.99%**
MINOR EQUIPMENT								
226 00	MINOR EQUIPMENT	3,250	0	0	0	0	3,250	
TOTAL MINOR EQUIPMENT		**3,250**	**0**	**0**	**0**	**0**	**3,250**	**100.00%**

DEPARTMENT OF CONSUMER AFFAIRS

BUDGET REPORT

AS OF 12/31/2011

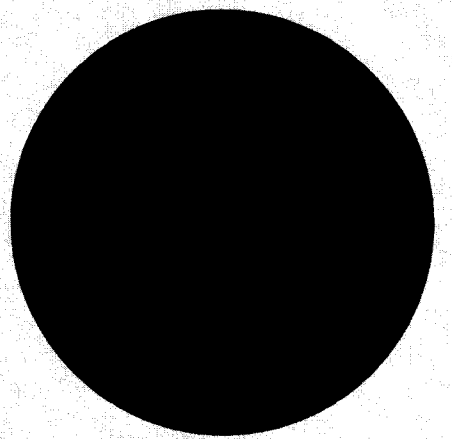
FM 06

CA BD OF OCCUPATIONAL THERAPY

DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
TOTAL OPERATING EXPENSES & EQUIPMEN	671,285	77,916	344,650	27,880	372,530	298,755	44.50%
CA BD OF OCCUPATIONAL THERAPY	1,460,727	126,892	630,368	27,880	658,249	802,478	54.94%
	1,460,727	126,892	630,368	27,880	658,249	802,478	54.94%

2nd Quarter FY 11-12

Agency Code	Agency Name	DCA Budget	Budget Revisions	Total Budget Amount	Total Invoiced in Quarter	Balance Remaining	Average Quarter Monthly Invoiced
3506	BD of Occupational Therapy	$133,243.00	$0.00	$133,243.00	$67,587.50	$65,655.50	$22,529.17
	2nd Quarter	$133,243.00	$0.00	$133,243.00	$32,217.50	$33,438.00	$10,739.17
	SUBTOTAL Y-T-D	$133,243.00	$0.00	$133,243.00	$99,805.00	$33,438.00	$16,634.17



3017 - Board of Occupational Therapy
Analysis of Fund Condition
(Dollars in Thousands)

NOTE: $2,640k General Fund Repayment Outstanding

FINAL 2010-11 GALLEY
PREPARED 3-15-10

	ACTUAL 2002-03	ACTUAL 2003-04	ACTUAL 2004-05	ACTUAL 2005-06	ACTUAL 2006-07	ACTUAL 2007-08	Actual 2008-09	Budget Act CY 2009-10	Governor's Budget 2010-11	BY+1 2011-12	BY+2 2012-13
BEGINNING BALANCE	$ 369	$ 723	$ 617	$ 1,337	$ 2,183	$ 2,833	$ 3,134	$ 3,150	$ 1,081	$ 596	$ 83
Prior Year Adjustment	$ 1	$ 7	$ 3	$ (2)	$ 29	$ 2	$ 1	$ -	$ -	$ -	$ -
Adjusted Beginning Balance	$ 370	$ 730	$ 620	$ 1,335	$ 2,212	$ 2,835	$ 3,135	$ 3,150	$ 1,081	$ 596	$ 83
REVENUES AND TRANSFERS											
Revenues:											
125600 Other regulatory fees	$ 1	$ 1	$ 1	$ 1	$ 10	$ 19	$ 18	$ 20	$ 20	$ 20	$ 20
125700 Other regulatory licenses and permits	$ 934	$ 131	$ 106	$ 98	$ 84	$ 88	$ 90	$ 92	$ 95	$ 95	$ 95
125800 Renewal fees	$ 287	$ 1,153	$ 1,227	$ 1,266	$ 1,160	$ 877	$ 741	$ 779	$ 793	$ 793	$ 793
125900 Delinquent fees	$ -	$ 10	$ 13	$ 15	$ 16	$ 23	$ 16	$ 2	$ 4	$ 4	$ 4
141200 Sales of documents	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
142500 Miscellaneous services to the public	$ -	$ 1	$ 5	$ 4	$ 6	$ 6	$ 8	$ 7	$ 7	$ 7	$ 7
150300 Income from surplus money investments	$ 14	$ 14	$ 25	$ 73	$ 136	$ 136	$ 71	$ 28	$ 5	$ 5	$ 1
160400 Sale of fixed assets	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
161000 Escheat of unclaimed checks and warrants	$ -	$ -	$ 1	$ 1	$ 1	$ 1	$ -	$ -	$ -	$ -	$ -
161400 Miscellaneous revenues	$ -	$ -	$ -	$ 12	$ -	$ -	$ 1	$ -	$ -	$ -	$ -
164300 Penalty Assessments	$ -	$ -	$ 3	$ -	$ 5	$ 7	$ 17	$ 11	$ 11	$ 11	$ 11
Totals, Revenues	$ 1,236	$ 1,310	$ 1,381	$ 1,470	$ 1,418	$ 1,157	$ 962	$ 939	$ 935	$ 935	$ 931
Transfers from Other Funds	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Transfers to Other Funds											
T00001 GF loan per 1475-011-3017 BA of 2003		$ (640)	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
T00002 GF loan per BA of 2009								$ (2,000)			
T00001 GF loan repayment per Ch 697/00	$ (459)	$ (241)									
Totals, Revenues and Transfers	$ 777	$ 429	$ 1,381	$ 1,470	$ 1,418	$ 1,157	$ 962	$ (1,061)	$ 935	$ 935	$ 931
Totals, Resources	$ 1,147	$ 1,159	$ 2,001	$ 2,805	$ 3,630	$ 3,992	$ 4,097	$ 2,089	$ 2,016	$ 1,531	$ 1,014
EXPENDITURES											
Disbursements:											
8860 FSCU (State Operations)					$ -	$ 1	$ 1				
1110 Program Expenditures (State Operations)	$ 424	$ 542	$ 664	$ 622	$ 797	$ 857	$ 946	$ 1,008	$ 1,420	$ 1,448	$ 1,477
OE&E Savings (Approved by Agency)											
	$ 424	$ 542	$ 664	$ 622	$ 797	$ 858	$ 947	$ 1,008	$ 1,420	$ 1,448	$ 1,477
FUND BALANCE											
Reserve for economic uncertainties	$ 723	$ 617	$ 1,337	$ 2,183	$ 2,833	$ 3,134	$ 3,150	$ 1,081	$ 596	$ 83	$ (463)
Months in Reserve	16.0	11.2	25.8	32.9	39.6	39.7	37.5	9.1	4.9	0.7	-3.7

NOTES:
A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR 2009-10 AND ON-GOING.
B. ASSUMES INTEREST RATE AT 2%.
C. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR.

3017 - Board of Occupational Therapy
Analysis of Fund Condition

Prepared 3/14/12

(Dollars in Thousands)

FY 2012-13 GOV BUD
NOTE: $2,640k GF Loan Outstanding

	ACTUAL 2002-03	ACTUAL 2003-04	ACTUAL 2004-05	ACTUAL 2005-06	ACTUAL 2006-07	ACTUAL 2007-08	Actual 2008-09	Actual 2009-10	Actual 2010-11	CY 2011-12	Governor's Budget BY 2012-13	BY+1 2013-14	BY+2 2014-15
BEGINNING BALANCE	$ 369	$ 723	$ 617	$ 1,337	$ 2,183	$ 2,833	$ 3,134	$ 3,150	$ 1,029	$ 891	$ 1,051	$ 685	$ 292
Prior Year Adjustment	$ 1	$ 7	$ 3	$ (2)	$ 29	$ 2	$ 1	$ -15	$ -1	$ -	$ -	$ -	$ -
Adjusted Beginning Balance	$ 370	$ 730	$ 620	$ 1,335	$ 2,212	$ 2,835	$ 3,135	$ 3,135	$ 1,028	$ 891	$ 1,051	$ 685	$ 292
REVENUES AND TRANSFERS													
Revenues:													
125600 Other regulatory fees	$ 1	$ 1	$ 1	$ 1	$ 10	$ 19	$ 18	$ 19	$ 42	$ 34	$ 42	$ 42	$ 42
125700 Other regulatory licenses and permits	$ 934	$ 131	$ 106	$ 98	$ 84	$ 88	$ 90	$ 88	$ 101	$ 128	$ 131	$ 131	$ 131
125800 Renewal fees	$ 287	$ 1,153	$ 1,227	$ 1,266	$ 1,160	$ 877	$ 741	$ 733	$ 790	$ 756	$ 789	$ 789	$ 789
125900 Delinquent fees	$ -	$ 10	$ 13	$ 15	$ 16	$ 23	$ 16	$ 13	$ 15	$ 16	$ 17	$ 17	$ 17
141200 Sales of documents	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
142500 Miscellaneous services to the public	$ -	$ 1	$ 5	$ 4	$ 6	$ 6	$ 8	$ 8	$ 7	$ 7	$ 7	$ 7	$ 7
150300 Income from surplus money investments	$ 14	$ 14	$ 25	$ 73	$ 136	$ 136	$ 71	$ 10	$ 5	$ 4	$ 1	$ -	$ -
160400 Sale of fixed assets	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
161000 Escheat of unclaimed checks and warrants	$ -	$ -	$ 1	$ 1	$ 1	$ 1	$ -	$ -	$ 1	$ 1	$ 1	$ 1	$ 1
161400 Miscellaneous revenues	$ -	$ -	$ -	$ 12	$ -	$ -	$ 1	$ -	$ -	$ -	$ -	$ -	$ -
164300 Penalty Assessments	$ -	$ -	$ 3	$ -	$ 5	$ 7	$ 17	$ 13	$ 12	$ 12	$ 14	$ 14	$ 14
Totals, Revenues	$ 1,236	$ 1,310	$ 1,381	$ 1,470	$ 1,418	$ 1,157	$ 962	$ 884	$ 973	$ 958	$ 1,002	$ 1,001	$ 1,001
Transfers from Other Funds													
F00001 GF loan per item 1475-011-3017 BA of 2003 (repay)	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 640	$ -	$ -	$ -
F00002 GF loan per BA of 2009 (repay)								$ -	$ -	$ -	$ -	$ -	$ -
Transfers to Other Funds													
T00001 GF loan per 1475-011-3017 BA of 2003		$ (640)	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
T00002 GF loan per BA of 2009								$ -2,000	$ -	$ -	$ -	$ -	$ -
T00001 GF loan repayment per Ch 697/00	$ (459)	$ (241)											
Totals, Revenues and Transfers	$ 777	$ 429	$ 1,381	$ 1,470	$ 1,418	$ 1,157	$ 962	$ -1,116	$ 973	$ 1,598	$ 1,002	$ 1,001	$ 1,001
Totals, Resources	$ 1,147	$ 1,159	$ 2,001	$ 2,805	$ 3,630	$ 3,992	$ 4,097	$ 2,019	$ 2,001	$ 2,489	$ 2,053	$ 1,686	$ 1,293
EXPENDITURES													
Disbursements:													
8880 FSCU (State Operations)					$ -	$ 1	$ 1	$ -	$ -	$ -	$ -	$ -	$ -
0840 SCO (State Operations)								$ -	$ -	$ -	$ 1	$ -	$ -
1110 Program Expenditures (State Operations)	$ 424	$ 542	$ 664	$ 622	$ 797	$ 857	$ 946	$ 990	$ 1,110	$ 1,438	$ 1,367	$ 1,394	$ 1,422
	$ 424	$ 542	$ 664	$ 622	$ 797	$ 858	$ 947	$ 990	$ 1,110	$ 1,438	$ 1,368	$ 1,394	$ 1,422
FUND BALANCE													
Reserve for economic uncertainties	$ 723	$ 617	$ 1,337	$ 2,183	$ 2,833	$ 3,134	$ 3,150	$ 1,029	$ 891	$ 1,051	$ 685	$ 292	$ -129
Months in Reserve	16.0	11.2	25.8	32.9	39.6	39.7	38.2	11.1	7.4	9.2	5.9	2.5	-1.1

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR 2009-10 AND ON-GOING.

B. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR.

3017 - Board of Occupational Therapy
Analysis of Fund Condition

(Dollars in Thousands)

Prepared 3/14/12

FY 2012-13 GOV BUD
NOTE: $2,640k GF Loan Outstanding

	ACTUAL 2002-03	ACTUAL 2003-04	ACTUAL 2004-05	ACTUAL 2005-06	ACTUAL 2006-07	ACTUAL 2007-08	Actual 2008-09	Actual 2009-10	Actual 2010-11	CY 2011-12	Governor's Budget BY 2012-13	BY+1 2013-14	BY+2 2014-15
BEGINNING BALANCE	$ 369	$ 723	$ 617	$ 1,337	$ 2,183	$ 2,833	$ 3,134	$ 3,150	$ 1,029	$ 891	$ 411	$ 45	$ -348
Prior Year Adjustment	$ 1	$ 7	$ 3	$ (2)	$ 29	$ 2	$ 1	$ -15	$ -1	$ -	$ -	$ -	$ -
Adjusted Beginning Balance	$ 370	$ 730	$ 620	$ 1,335	$ 2,212	$ 2,835	$ 3,135	$ 3,135	$ 1,028	$ 891	$ 411	$ 45	$ -348
REVENUES AND TRANSFERS													
Revenues:													
125600 Other regulatory fees	$ 1	$ 1	$ 1	$ 1	$ 10	$ 19	$ 18	$ 19	$ 42	$ 34	$ 42	$ 42	$ 42
125700 Other regulatory licenses and permits	$ 934	$ 131	$ 106	$ 98	$ 84	$ 88	$ 90	$ 88	$ 101	$ 128	$ 131	$ 131	$ 131
125800 Renewal fees	$ 287	$ 1,153	$ 1,227	$ 1,266	$ 1,160	$ 877	$ 741	$ 733	$ 790	$ 756	$ 789	$ 789	$ 789
125900 Delinquent fees	$ -	$ 10	$ 13	$ 15	$ 16	$ 23	$ 16	$ 13	$ 15	$ 16	$ 17	$ 17	$ 17
141200 Sales of documents	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
142500 Miscellaneous services to the public	$ -	$ 1	$ 5	$ 4	$ 6	$ 6	$ 8	$ 8	$ 7	$ 7	$ 7	$ 7	$ 7
150300 Income from surplus money investments	$ 14	$ 14	$ 25	$ 73	$ 136	$ 136	$ 71	$ 10	$ 5	$ 4	$ 1	$ -	$ -
160400 Sale of fixed assets	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
161000 Escheat of unclaimed checks and warrants	$ -	$ -	$ 1	$ 1	$ 1	$ 1	$ -	$ -	$ 1	$ 1	$ 1	$ 1	$ 1
161400 Miscellaneous revenues	$ -	$ -	$ -	$ 12	$ -	$ -	$ 1	$ -	$ -	$ -	$ -	$ -	$ -
164300 Penalty Assessments	$ -	$ -	$ 3	$ -	$ 5	$ 7	$ 17	$ 13	$ 12	$ 12	$ 14	$ 14	$ 14
Totals, Revenues	$ 1,236	$ 1,310	$ 1,381	$ 1,470	$ 1,418	$ 1,157	$ 962	$ 884	$ 973	$ 958	$ 1,002	$ 1,001	$ 1,001
Transfers from Other Funds													
F00001 GF loan per item 1475-011-3017 BA of 2003 (repay)	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
F00002 GF loan per BA of 2009 (repay)								$ -	$ -	$ -	$ -	$ -	$ -
Transfers to Other Funds													
T00001 GF loan per 1475-011-3017 BA of 2003		$ (640)	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
T00002 GF loan per BA of 2009								$ -2,000	$ -	$ -	$ -	$ -	$ -
T00001 GF loan repayment per Ch 697/00	$ (459)	$ (241)											
Totals, Revenues and Transfers	$ 777	$ 429	$ 1,381	$ 1,470	$ 1,418	$ 1,157	$ 962	$ -1,116	$ 973	$ 958	$ 1,002	$ 1,001	$ 1,001
Totals, Resources	$ 1,147	$ 1,159	$ 2,001	$ 2,805	$ 3,630	$ 3,992	$ 4,097	$ 2,019	$ 2,001	$ 1,849	$ 1,413	$ 1,046	$ 653
EXPENDITURES													
Disbursements:													
8880 FSCU (State Operations)					$ -	$ 1	$ 1	$ -	$ -	$ -	$ -	$ -	$ -
0840 SCO (State Operations)								$ -	$ -	$ -	$ 1	$ -	$ -
1110 Program Expenditures (State Operations)	$ 424	$ 542	$ 664	$ 622	$ 797	$ 857	$ 946	$ 990	$ 1,110	$ 1,438	$ 1,367	$ 1,394	$ 1,422
	$ 424	$ 542	$ 664	$ 622	$ 797	$ 858	$ 947	$ 990	$ 1,110	$ 1,438	$ 1,368	$ 1,394	$ 1,422
FUND BALANCE													
Reserve for economic uncertainties	$ 723	$ 617	$ 1,337	$ 2,183	$ 2,833	$ 3,134	$ 3,150	$ 1,029	$ 891	$ 411	$ 45	$ -348	$ -769
Months in Reserve	16.0	11.2	25.8	32.9	39.6	39.7	38.2	11.1	7.4	3.6	0.4	-2.9	-6.4

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR 2009-10 AND ON-GOING.

B. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR.

Department of Consumer Affairs

Board of Occupational Therapy

Performance Measures

Annual Report *(2010 – 2011 Fiscal Year)*

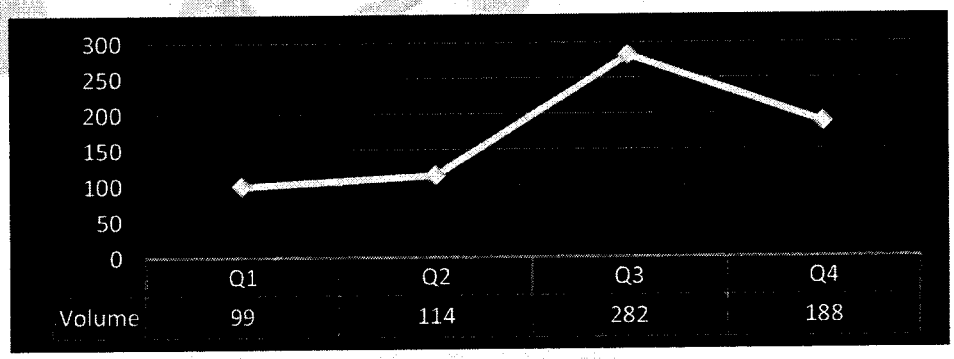
To ensure stakeholders can review the Board's progress in meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures are posted publicly on a quarterly basis.

This annual report represents the culmination of the first four quarters worth of data.

Volume

Number of complaints and convictions received.

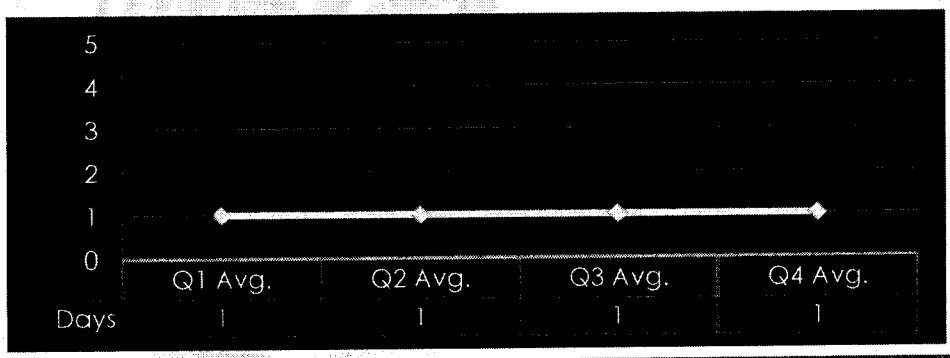
The Board had an annual total of 683 this fiscal year.



Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

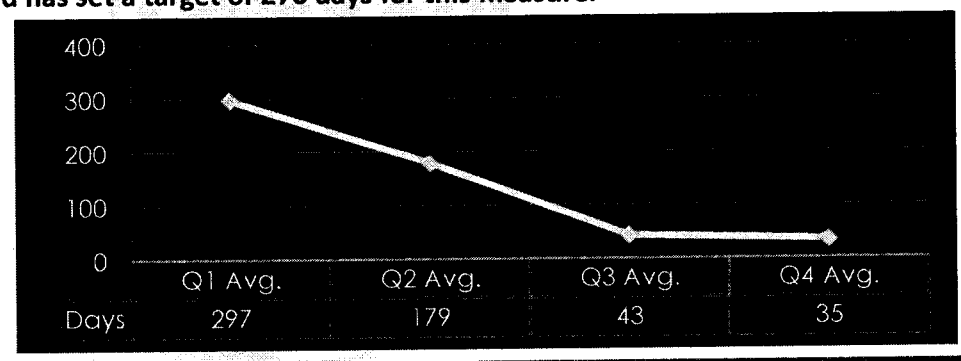
The Board has set a target of 2 days for this measure.



Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

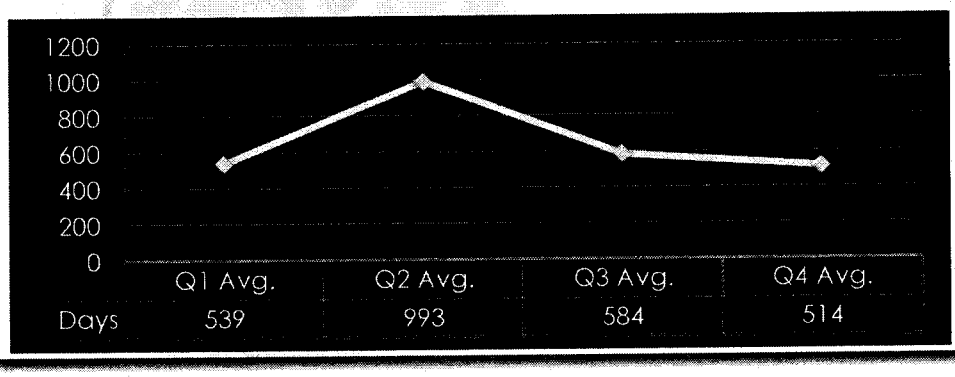
The Board has set a target of 270 days for this measure.



Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

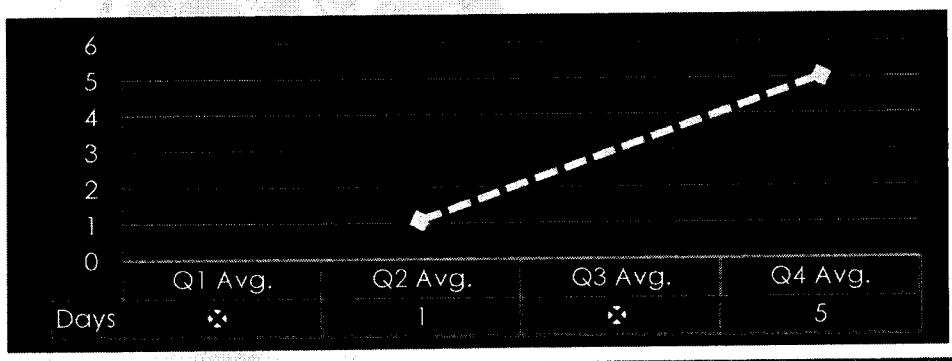
The Board has set a target of 540 days for this measure.



Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

The Board has set a target of 10 days for this measure.



Department of Consumer Affairs

Board of Occupational Therapy

Performance Measures

Q1 Report *(July - September 2011)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

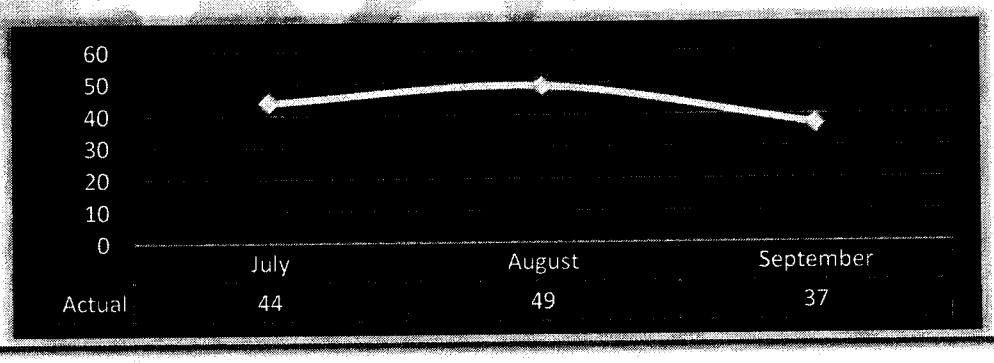
Volume

Number of complaints and convictions received.

Q1 Total: 130

Complaints: 106 Convictions: 26

Q1 Monthly Average: 43

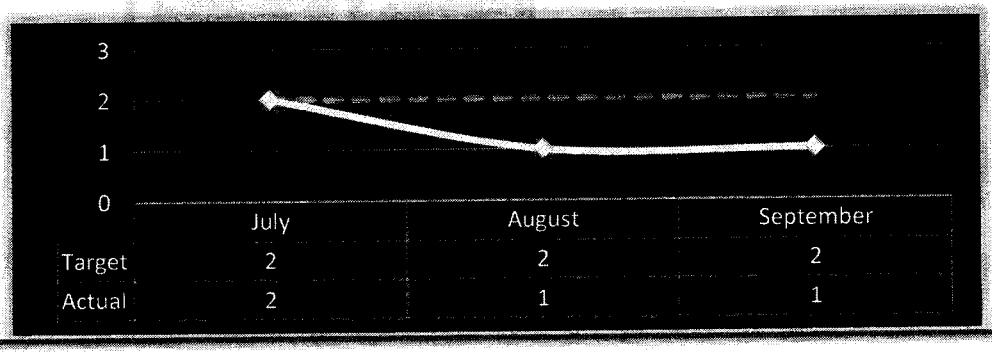


Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 2 Days

Q1 Average: 2 Day

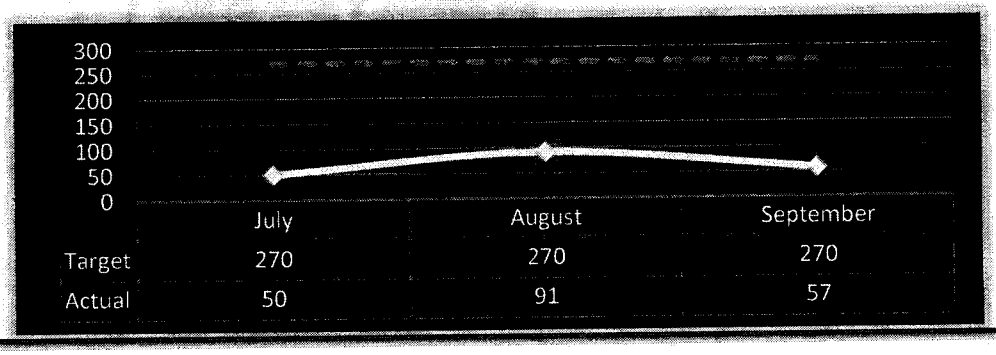


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 270 Days

Q1 Average: 62 Days



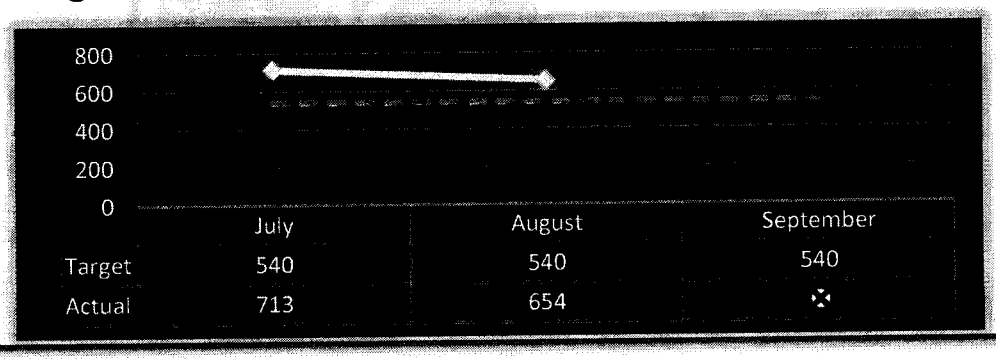
	July	August	September
Target	270	270	270
Actual	50	91	57

Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q1 Average: 699 Days



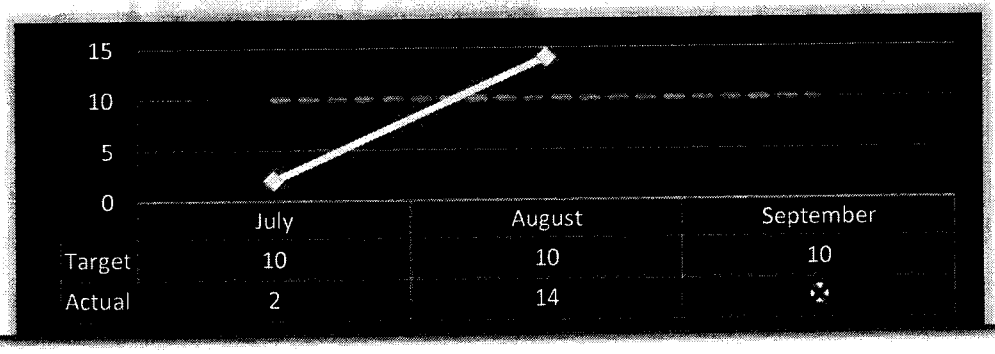
	July	August	September
Target	540	540	540
Actual	713	654	

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q1 Average: 8 Days



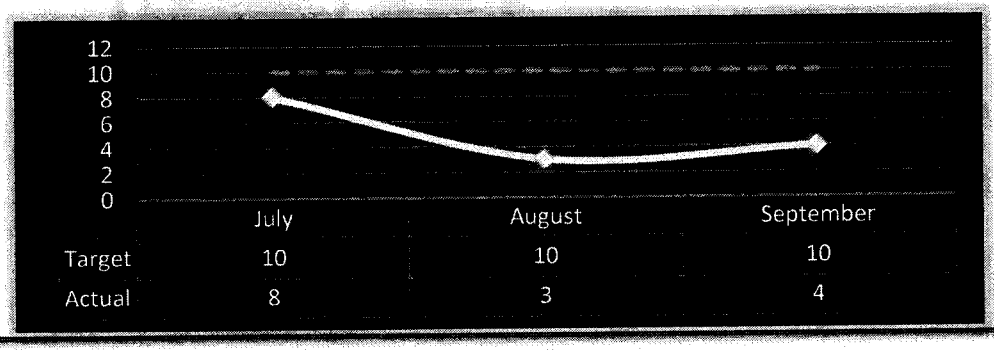
	July	August	September
Target	10	10	10
Actual	2	14	

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 10 Days

Q1 Average: 4 Days



	July	August	September
Target	10	10	10
Actual	8	3	4

Department of Consumer Affairs

Board of Occupational Therapy

Performance Measures

Q2 Report *(October - December 2011)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

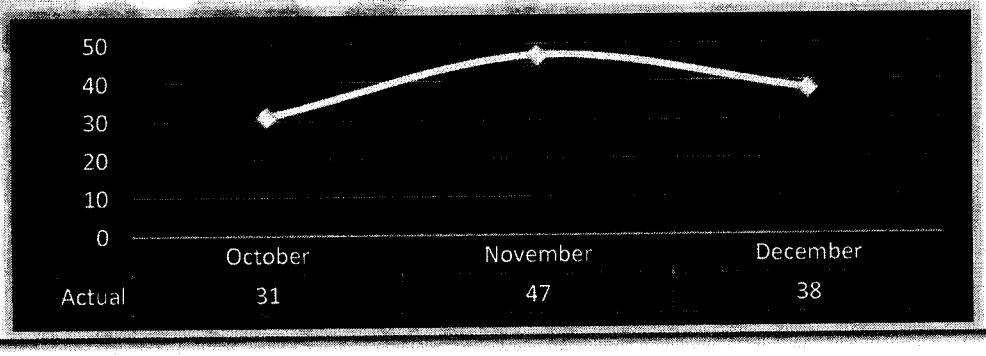
Volume

Number of complaints and convictions received.

Q2 Total: 116

Complaints: 100 Convictions: 16

Q2 Monthly Average: 39

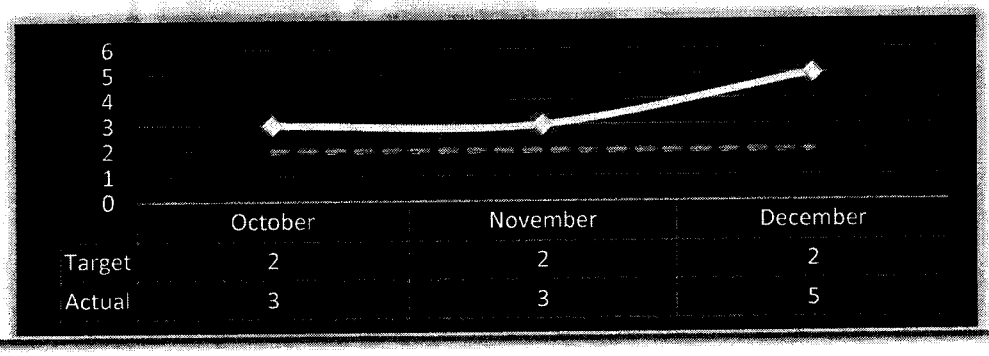


Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 2 Days

Q2 Average: 4 Day

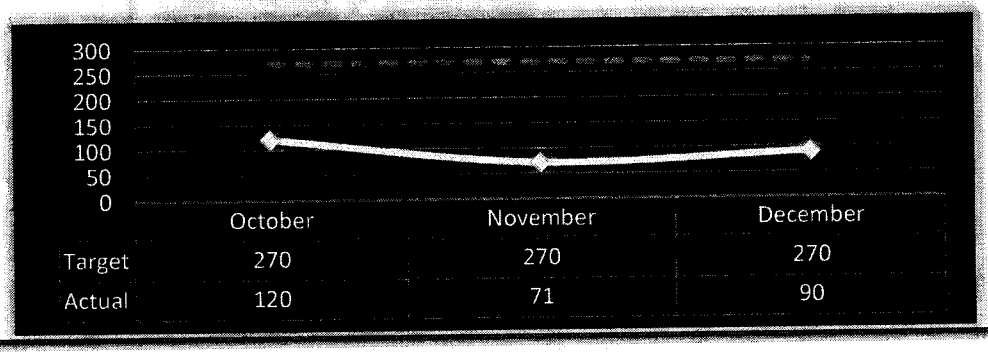


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 270 Days

Q2 Average: 98 Days



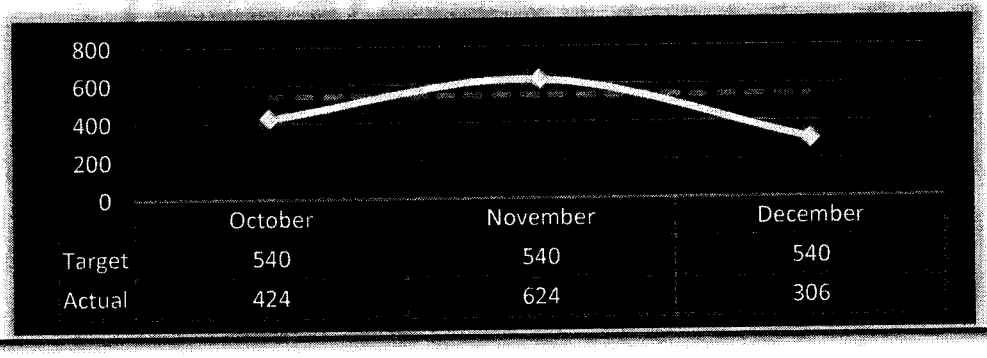
	October	November	December
Target	270	270	270
Actual	120	71	90

Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q2 Average: 521 Days



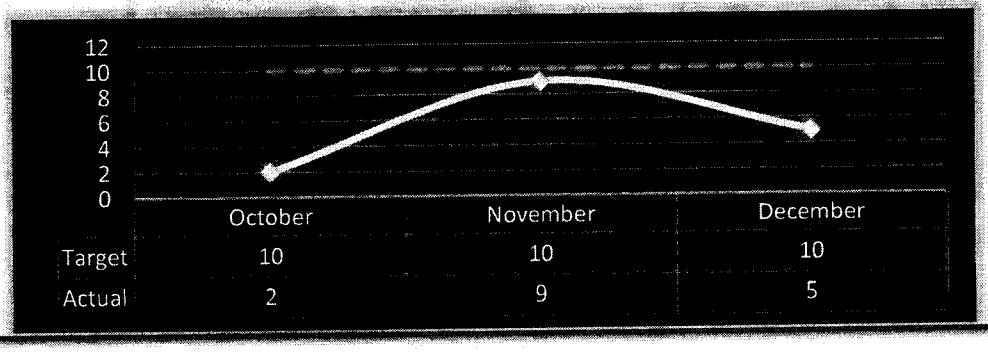
	October	November	December
Target	540	540	540
Actual	424	624	306

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q2 Average: 8 Days



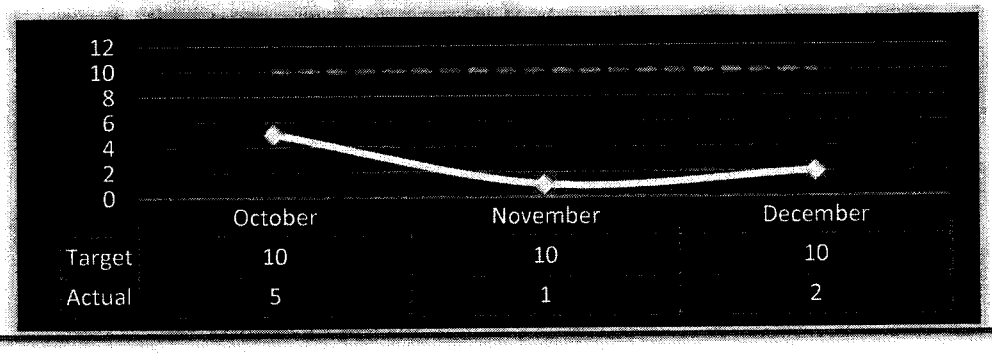
	October	November	December
Target	10	10	10
Actual	2	9	5

Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 10 Days

Q2 Average: 4 Days



	October	November	December
Target	10	10	10
Actual	5	1	2

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

Strategic Plan 2011–2014

Board Members

Bobbi Jean Tanberg, BS, COTA/L, ATP, President

Nancy Michel, Public Member, Vice President

Eric Alegria, Public Member

Mary M. Evert, MBA, OTR/L, FAOTA, Scd(Hon.)

Linda Florey, OTR/L, Secretary

Luella Grangaard, OTR/L

Kathay Lovell, Public Member

Senior Board Staff

Heather Martin, Executive Officer

Jeff Hanson, Enforcement Manager

Introduction

The California Board of Occupational Therapy (Board), established on January 1, 2001 (Senate Bill 1046, Chapter 697, Statutes of 2000), protects the health, safety, and welfare of california consumers by regulating the practice of occupational therapists and occupational therapy assistants. Board members meet four to six times annually to set policy, develop legislation and regulations that identify education, experience and examination requirements for licensure and establish and enforce professional standards of practice.

PLANNING
IDEA
STRATEGY
TACTICS
VISION

VISION

The California Board of Occupational Therapy is a model organization for occupational therapy state regulatory boards, ensuring consumer protection and quality occupational therapy.

MISSION

The mission of the California Board of Occupational Therapy is to regulate occupational therapy by serving and protecting california's consumers and licensees.

CORE VALUES

The California Board of Occupational Therapy will strive for the highest possible quality throughout all of its programs making it a progressive and responsive organization by:

- Providing excellent customer service to consumers, licensees, employers and other stakeholders;
- Promoting, applying, and enforcing ethical standards of occupational therapy;
- Implementing fair and consistent application of the laws and regulations governing occupational therapy;
- Recognizing and supporting the diverse practice settings and roles in occupational therapy;
- Encouraging active participation by stakeholders through access to the board;
- Ensuring a high level of professionalism, efficiency, and effectiveness by the board members and staff.

STRATEGIC GOALS

The following strategic goals were identified:

Goal 1:
enforce the laws and regulations governing occupational therapy by effectively investigating complaints, non-compliance, and irregularities, and concluding with an appropriate response.

Goal 2:
ensure those seeking licensure meet professional standards of conduct, education, fieldwork, and examination.

Goal 3:
monitor evolving trends and standards in occupational therapy, modify statutes and regulations as needed, and promptly inform licensees of these changes, secure necessary funding and ensure responsive staff processes.

Goal 4:
inform the public and other entities about occupational therapy requirements, evidence-based practices, standards and trends through accessible "green" communication methods.

STRATEGIC GOALS AND OBJECTIVES

Goal 1:

Enforce the laws and regulations governing occupational therapy by effectively investigating complaints, non-compliance, irregularities, and conclude with an appropriate response.

1.1 Fully audit no less than 5 percent of renewing licensees, to determine if continuing competency requirements are met.

1.2 Establish and maintain a pool of 20 practice reviewers to review enforcement cases.

1.3 Target 90 percent of complaints investigated by board staff to be completed in 90 days or less.

1.4 Ensure the enforcement program is sufficiently funded and staffed to ensure consumer protection with prompt actions.

1.5 Promptly post disciplinary process on board's website.

Goal 2:

Ensure those seeking licensure meet professional standards of conduct, education, fieldwork, and examination.

2.1 Research the implications of revised (2008) accreditation council for occupational therapy education (acote) standards and determine relevance to and impact on advanced practice requirements by 2013.

2.2 Investigate the value and cost of developing a jurisprudence examination on professional standards of conduct.

STRATEGIC GOALS AND OBJECTIVES (CONTD.)

Goal 3:

Monitor evolving trends and standards in occupational therapy, modify statutes and regulations as needed and promptly inform licensees of these changes, secure necessary funding, and ensure responsive staff processes.

3.1 Practice committee will identify and track changes in areas of occupational therapy practice, education and research, and advise the board.

3.2 The legislative and regulatory review committee will identify and track legislation and review regulations which affect occupational therapy practice and advise the board.

3.3 Annually review continuing competency requirements relevant to identified best practices, standards and trends.

3.4 Send quarterly notifications to advise and update practitioners of laws and regulations.

3.4.a Educate practitioners of laws and regulations impacting occupational therapy scope of practice.

3.5 Through on-line licensure (breeze), 80% of the license renewals and initial licensure applications will be completed via the internet.

3.6 Provide at least two board meetings annually and committee meetings when possible via electronic communication to increase accessibility to board business.

Goal 4:

Inform the public and other entities about occupational therapy requirements, evidence-based practices, standards and trends through accessible "green" communication methods.

4.1 Increase education and outreach efforts to consumers regarding laws and regulations affecting occupational therapy.

4.1.a. Develop and make available consumer-related informational brochures (i.e. 'what is ot?' And 'the complaint process.')

4.1.b. Participate in at least four community programs and public events annually to educate the public about occupational therapy, subject to travel restrictions and available funding.

4.2 Active collaboration with other health care professionals (i.e. physical therapists, speech-language pathologists and audiologists, nurses, physicians, social workers and other mental-health practitioners, etc.) to ensure that those professions and the public are informed about occupational therapy, and that the occupational therapy regulations and enforcement procedures are applicable, adequate and relevant.

4.3 Active collaboration with the department of health care services, the department of public health, the department of mental health, the department of aging, the department of social services, the department of education, the department of veteran's affairs, the department of corrections and rehabilitation, the legislative bodies and other governmental entities, and ensure they are adequately informed about occupational therapy and that their respective laws and regulations are updated appropriately.

Regulations Update report.

The following is attached for review:

- Regulations Update Report.

- Documentation supporting amendments to CCR Sections 4100, 4101, 4146, 4148 4149, 4149.1, Definitions, Delegation of Certain of Functions, Definitions, Mental or Physical Examination of Fitness for Licensure, Other Actions Constituting Unprofessional Conduct, and Revocation for Sexual Contact, including:
  - Notice
  - Proposed Text
  - Modified Text

- Documentation supporting amendments to CCR Sections 4116, 4117, 4118, 4119, for Sponsored Free Health Care Events, including Definitions, Sponsoring Entity Registration, Out-of- State Authorization to Participate, and Termination of Authorization and Appeal, including:
  - Notice
  - Proposed Text
  - Initial Statement of Reasons
  - Sponsoring Entity Application
  - *Proposed* Modified Text
  - *Proposed* amended Sponsoring Entity Application
  - *Proposed* Resolution (Delegating to DCA the Authority to Receive and Process Sponsoring Entity Applications on behalf of the Board)

- Documentation supporting amendment to CCR Section 4155, Advanced Practice Application to Provide Physical Agent Modalities, including:
  - Notice
  - Proposed Text
  - Advanced Practice Application

- Documentation relating to amendments to CCR Sections 4180, 4184, 4187, regarding Supervision covered under Agenda Item 8 – nothing provided here.

REGULATION UPDATE REPORT

Pending Regulation: In-Process

Rulemaking File Subject	Sec.	Status	Close of public comment period	Date Pkg Sent to DCA	Date Pkg Rtn'd from DCA	Final Pkg Due to OAL	Actual Submit Date To OAL	Date language goes into effect
Definitions and Delegation of Certain of Functions, Other	4100, 4101, 4146, 4148 4149, 4149.1	Language adopted by the Board at September 2011 meeting. (CPEI regulations)	09/05/2011	10/20/2011	Currently pending DCA and DOF reviews	07/21/2012	n/a	n/a
Registration for Sponsored Health Care Events	4116, 4117, 4118, 4119	Language adopted by the Board at September 2011 meeting. (This language implements AB 2699)	09/05/2011	11/2/2011	02/03/2012	07/21/2012	02/09/2012	n/a
Advanced Practice Application (PAMS only)	4155	Language adopted by the Board at September 2011 meeting. (Error in rulemaking file – technical amendment)	09/05/2011	11/2/2011	01/31/2012	07/21/2012	02/09/2012	n/a
Definitions and Supervision Plan for an Occupational Therapist	4180, 4184, 4187	Language to amend sections 4180 and 4187 approved at July 2010 Board meeting and section 4184 approved at March 2011 Board meeting; to be published.	11/14/2011 01/03/2012	n/a	10/13/2012	10/13/2012	n/a	n/a

TITLE 16. CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (CBOT) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments relevant to the proposed action in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 pm on September 5, 2011, or must be received by the CBOT at the hearing.

The CBOT does not intend to hold a hearing in this matter. If any interested party wishes that a hearing be held, he or she must make the request in writing to the board. The request must be received in the board office not later than 5:00 pm. on August 22, 2011.

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

Authority and Reference: Pursuant to the authority vested by section 2570.20 of the Business and Professions Code (BPC), and to implement, interpret or make specific section 2570.28, the Board is proposing changes to Division 39, Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The following regulatory changes are proposed:

- Amend CCR 4100. Definitions

Current law, BPC section 2570.2, the Occupational Therapy Practice Act, defines basic terminology related to the licensing of occupational therapists, and the practice of occupational therapy. Current regulation, CCR Section 4100, adds and defines additional occupational therapy terminology. Current CCR Section 4100(a) defines the term "Certificate" as authorization by the board for occupational therapy assistants to practice under the supervision of licensed occupational therapist. The term "certificate" is a synonym for license or permit. Current CCR Section 4100(c) includes the term "certificate" as well as the terms license and permit.

The amendment to CCR 4100 deletes the current section 4100(a) and the term "certificate" in section 4100(c) to eliminate redundancy and clarify the regulation. The phrase "or an occupational therapist assistant" is added to the current section 4100(d) to identify occupational therapy assistants as licensees as well as occupational therapists. Current CCR section 4100(e) adds the term "licensed" to modify "occupational therapist". All of the amendments to section 4100 are proposed to clarify the regulation and eliminate redundancy. The subsections of CCR 4100 have been re-numbered for internal consistency.

In addition, the current language contained in CCR 4100(f), (g), (h) and (i) is deleted. This deleted language is hereby re-numbered as new section CCR 4146 and is added to the proposed new Article 5.5, Enforcement.

- Amend CCR 4101. Delegation of Certain Functions

Current law confers specified powers and discretion to the board to facilitate the processing of disciplinary accusations. The amendment to CCR 4101 specifically:

1. delegates to the board the power to order an examination by one or more physicians or surgeons to determine whether a licentiate's ability to practice is impaired due to mental or physical illness affecting competency by incorporating by reference BPC section 820;
2. delegates to the board the authority to approve a settlement agreement for revocation or surrender of a license or approve an interim license suspension.

Article 5.5. Enforcement is being added as part of rulemaking file number Z-2010-0601-03.

- CCR 4146. Definitions is added to Article 5.5. Enforcement

Current law authorizes the board to adopt rules in accordance with the Administrative Procedure Act relating to professional conduct including the establishment of ethical standards of practice for persons holding a license to practice occupational therapy.

The current language of CCR 4100(f), (g), (h) and (i) proposed to be deleted from CCR 4100. Definitions, is hereby renumbered as section CCR 4146 and is added to the proposed new Article 5.5 Enforcement. The new section 4146 specifically:

1. defines incompetence, negligence and gross negligence as unprofessional conduct for purposes of requirements for licensure;
2. establishes that conviction of crimes involving conduct substantially related to the qualifications, functions or duties of an occupational therapy practitioner if it evidences present or potential unfitness of a licensee;
3. specifies crimes that demonstrate conduct inconsistent with public health, safety or welfare.
4. relocates the deleted language to the new Article 5.5. Enforcement. for clarity and renumbered for internal consistency.

- CCR 4148. Mental or Physical Examination of Fitness for Licensure is added to Article 5.5. Enforcement

Current law authorizes the board to order an examination by one or more physicians or surgeons to determine whether a licentiate's ability to practice is impaired due to mental or physical illness affecting competency by incorporating by reference BPC Section 820. The addition of CCR 4148 specifically:

1. confirms BPC section 820 in regulatory form;
2. authorizes the board to pay the full cost of any such examination.

- CCR 4149. Other Actions Constituting Unprofessional Conduct is added to Article 5.5

Current law empowers the board to adopt rules relating to professional licensure and the establishment of ethical standards of practice for persons holding a license to practice occupational therapy in this state. The addition of CCR 4149 specifically:

1. identifies additional acts constituting unprofessional conduct primarily relating to the prosecution disciplinary proceedings against a licensee, other than violations of the California Penal Code.

- CCR 4149.1 Revocation for Sexual Contact is added to Article 5.5. Enforcement

Current law empowers the board to adopt rules relating to professional licensure and the establishment of ethical standards of practice for persons holding a license to practice occupational therapy in this state. The addition of CCR 4149 specifically:

1. defines the term "sexual contact" for purposes of disciplinary proceedings;
2. incorporates by reference Section 44010 of the Education Code which defines the term "sex offense" and enumerates the Penal Code Sections which constitute a sex offense for purposes of license revocation proceedings;
3. prohibits an order staying the revocation of a license to be included in a proposed decision of revocation.

FISCAL IMPACT ESTIMATES

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

Non-discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

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

Business Impact: This regulation will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses from other states. Businesses that employ occupational therapy practitioners would be affected if the practitioner had committed an act that resulted in revocation of the license thereby resulting in loss of income to the business and result in costs to recruit a replacement.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not have a significant economic impact on small businesses with the exception of private occupational therapy practitioners that have their license revoked.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less

burdensome to affected private persons than the proposal described in this Notice. Adoption of the proposed regulatory action is consistent with the concept of transparency of government.

TEXT OF PROPOSAL AND INITIAL STATEMENT OF REASONS AND INFORMATION

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

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

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

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

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

CONTACT PERSON

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

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

The backup contact person is:

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

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

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
PROPOSED REGULATORY LANGUAGE
Title 16, Division 39, California Code of Regulations
Sections 4100, 4101, 4146, 4148, 4149, and 4149.1

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 a~~n~~ licensed 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), t~~T~~he 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, adoption of default decisions, 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, Enforcement, 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, Enforcement, to read as follows:

§ 4148. Mental or Physical Examination of Fitness for Licensure.

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, Enforcement, 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, Enforcement, 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 Section11500) 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, which is defined as sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse, 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, 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.

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
PROPOSED MODIFIED REGULATORY LANGUAGE
Title 16, Division 39, California Code of Regulations
Sections 4101 and 4146

Specific Language

Proposed amendments are shown by ~~strikeout~~ for deleted text and underlined for new text. Modifications to the proposed text are shown by ~~double strikeout~~ for deleted text and double underline for new text.

Amend Title 16, Division 39, California Code of Regulations 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), t~~T~~he 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, ~~adoption of default decisions,~~ 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.

§ 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 or alcohol 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.

TITLE 16. CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (CBOT) is proposing to take the action described in the Informative Digest. Any person interested may submit statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or email to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 pm on September 5, 2011.

The Board does not intend to hold a hearing in this matter. If any interested party wishes that a hearing be held, he or she must make the request in writing to the CBOT. The request must be received in the CBOT office not later than 5:00 pm August 22, 2011.

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

Authority and Reference: Pursuant to the authority vested by Business and Professions Code Sections 901 and 2570.20, and to implement, interpret or make specific Section 901 of said Code, the board is considering changes to Division 39 of Title 16 as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CBOT proposes to adopt Sections 4116, 4117, 4118, and 4119, in Article 2.1 of Division 39, Title 16, relating to Sponsored Free Health Care Events.

On September 23, 2010, Governor Arnold Schwarzenegger signed AB 2699 (Bass, Chapter 270, Statutes of 2010), enacting Business and Professions Code (BPC) Section 901 ("§ 901"), which took effect January 1, 2011. This statute provides a regulatory framework for certain health care events at which free care is offered to uninsured or under-insured individuals by volunteer health care practitioners where those practitioners may include individuals who may be licensed in one or more states but are not licensed in California. Prior to this enactment, licensing laws precluded the participation of volunteers licensed outside of California. § 901 defines "sponsoring entities," "sponsored events," and "health care practitioners," and sets forth requirements for registration of sponsoring entities and authorization for participation by practitioners licensed in other states by the various boards responsible for licensure and regulation of healing arts.

These proposed regulations would implement, interpret, and make specific the provisions of § 901 by specifying procedures and forms to be used by sponsoring entities and out-of-state practitioners who desire to participate in sponsored events. The board's highest priority is the protection of the public and these proposed regulations are intended to implement § 901 in a manner that will provide the greatest protection for the people of California.

The CBOT is hereby incorporating by reference the following forms:

- Sponsored Free Health Care Events-Registration of Sponsoring Entity, CBOT 901-A (Rev 9/2011)
- Request for Authorization to Practice Without a California License at a Registered Free Health Care Event, CBOT 901-B (Rev 9/2011)

FISCAL IMPACT ESTIMATES

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

Non-discretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact: This regulation will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. This initial determination is based on evidence/documents/testimony:

The regulation impacts nonprofit organizations sponsoring free health care events and practitioners from other states volunteering in California. There is some impact to the out-of-state volunteers in that they will be required to submit the processing fee to receive authorization to participate. This fee will have to be factored into the cost of the individual's volunteered services. The fee may be covered by sponsoring entities, who will also incur minor costs with respect to maintaining records for their volunteers, reporting to Boards after the events and filing a registration as appropriate. Those costs are imposed by the statute and not by the proposed regulations.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

There is no significant impact on private business or representative private persons, except to clarify licensee representations that demonstrate professional qualifications of occupational therapy practitioner(s) to be in a manner inconsistent with the public health, safety or welfare. Minor costs will be involved in respect to the maintenance of records of volunteers, reporting to the CBOT after the event, and filing a registration as appropriate.

EFFECT ON HOUSING COSTS: None

EFFECT ON SMALL BUSINESS:

There is no significant cost impact on small business. Minor costs will be involved in respect to the maintenance of records of volunteers, reporting to the CBOT after the event, and filing a registration as appropriate.

CONSIDERATION OF ALTERNATIVES:

The Board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed, or be as effective as and less burdensome to affected private persons than the proposal described in this Notice.

TEXT OF PROPOSAL AND INITIAL STATEMENT OF REASONS AND INFORMATION:

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

Copies of the exact language of the proposed regulation, any documents incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained from the Board's website as listed below or upon written request from the contact person listed below.

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

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

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

CONTACT PERSON:

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

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

The backup contact person is:

Heather Martin

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

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

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
PROPOSED REGULATORY LANGUAGE
Title 16, Division 39, California Code of Regulations
Sections 4116, 4117, 4148, and 4119

Add Article 2.1 to Division 39 of Title 16 to read as follows:

Article 2.1.

Sponsored Free Health Care Events—Requirements for Exemption.

§4116. Definitions.

For the purposes of section 901 of the Business and Professions Code:

(a) "Community-based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

(b) "Out-of-state practitioner" means a person who is not licensed in California to engage in the practice of occupational therapy, nor has previously had an application denied by the Board, but who holds a current valid and unrestricted license, registration, or certificate in good standing in another state, district, or territory of the United States to practice as an occupational therapist or occupational therapy assistant.

NOTE: Authority cited: Sections 901 and 2570.20, Business and Professions Code. Reference: Section 901, Business and Professions Code.

§4117. Sponsoring Entity Registration and Recordkeeping Requirements.

(a) Registration. A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under section 901 of the code shall register with the board not later than 90 calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsoring entity shall register with the board by submitting to the board a completed Form CBOT 901-A (Rev. 9/2011), which is hereby incorporated by reference.

(b) Determination of Completeness of Form. The board may, by resolution, delegate to the Department of Consumer Affairs the authority to receive and process Form CBOT 901-A (Rev. 9/2011) on behalf of the Board. The Board or its delegatee shall inform the sponsoring entity in writing within 20 calendar days of receipt of the form that the form is either complete and the sponsoring entity is registered or that the form is deficient and what specific information or documentation is required to complete the form and be registered. The board shall reject the registration if all of the identified deficiencies have not been corrected at least 30 days prior to the commencement of the sponsored event.

(c) Recordkeeping Requirements. Regardless of where it is located, a sponsoring entity shall maintain at a physical location in California a copy of all records required by section 901 as well as a copy of the authorization for participation issued by the board to an out-of-state practitioner. The sponsoring entity shall maintain these records for a period of at least five years after the date on which a sponsored event ended. The records may be maintained in either paper or electronic form. The sponsoring entity shall notify the board at the time of registration as to the form in which it will maintain the records. In addition, the sponsoring entity shall keep a copy of all records required by section 901(g) of the code at the physical location of the sponsored event until that event has ended. These records shall be available for inspection and copying during the operating hours of the sponsored event upon request of any representative of the board.

(d) Notice. A sponsoring entity shall place a notice visible to patient at every station where patients are being seen by an occupational therapist or occupational therapy assistant. The notice shall be in at least 48 point type in Arial font and shall include the following statement and information:

NOTICE

Occupational therapists and occupational therapy assistants providing health care services at this health fair are either licensed and regulated by the California Board of Occupational Therapy or hold a current valid license from another state and have been authorized to provide health care services in California only at this specific health fair.

For more information:

CA Board of Occupational Therapy
1-800-952-5210 or 1-916-263-2294
www.bot.ca.gov

(e) Requirement for Prior Board Approval of Out-of-State Practitioner. A sponsoring entity shall not permit an out-of-state practitioner to participate in a sponsored event unless and until the sponsoring entity has received written approval from the board.

(f) Report. Within 15 calendar days after a sponsored event has concluded, the sponsoring entity shall file a report with the board summarizing the details of the sponsored event. This report may be in a form of the sponsoring entity's choosing, but shall include, at a minimum, the following information:

(1) The date(s) of the sponsored event;
(2) The location(s) of the sponsored event;
(3) The type(s) and general description of all health care services provided at the sponsored event; and
(4) A list of each out-of-state practitioner granted authorization pursuant to this article who participated in the sponsored event, along with the license number of that practitioner.

NOTE: Authority cited: Sections 901 and 2570.20, Business and Professions Code. Reference: Section 901, Business and Professions Code.

§ 4118. Out-of-State Practitioner Authorization to Participate in Sponsored Event

(a) Request for Authorization to Participate. An out-of-state practitioner ("applicant") may request authorization from the board to participate in a sponsored event and provide such health care services at the sponsored event as would be permitted if the applicant were licensed by the board to provide those services. An applicant shall request authorization by submitting to the board a completed Form CBOT 901-B (Rev. 09/2011), which is hereby incorporated by reference, accompanied by a non-refundable, non-transferable processing fee of fifty dollars ($50). The applicant shall also furnish either a full set of fingerprints or submit a Live Scan inquiry to establish the identity of the applicant and to permit the board to conduct a criminal history record check. The applicant shall pay any costs for furnishing the fingerprints and conducting the criminal history record check. This requirement shall apply only to the first application for authorization that is submitted by the applicant.

(b) Response to Request for Authorization to Participate. Within 20 calendar days of receiving a completed request for authorization, the board shall notify the sponsoring entity or local governmental entity whether that request is approved or denied.

(c) Denial of Request for Authorization to Participate.

(1) The board shall deny a request for authorization to participate if:

(A) The submitted form is incomplete and the applicant has not responded within 7 calendar days to the board's request for additional information; or

(B) The applicant has not graduated from a school or program approved by the Accreditation Council for Occupational Therapy Education, its predecessor organization, or otherwise approved by the board; or

(C) The applicant has not passed the examination administered by the National Board for Certification in Occupational Therapy or its predecessor organization; or

(D) The applicant has failed to comply with a requirement of this article or has committed any act that would constitute grounds for denial of an application for licensure by the board; or

(E) The applicant does not possess a current, active, and valid license in good standing.

The term "good standing" means the applicant:

(i) Has not been charged with an offense for any act substantially related to the practice for which the applicant is licensed by any public agency;

(ii) Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed upon the applicant's professional conduct or practice, including any voluntary surrender of license;
(iii) Has not been the subject of an adverse action nor judgment resulting from the practice for which the applicant is licensed that the board determines constitutes evidence of a pattern or negligence or incompetence.

(F) The board has been unable to obtain a timely report of the results of the criminal history check.

(2) The board may deny a request for authorization to participate if:

(A) The request is received less than 20 calendars days before the date on which the sponsored event will begin; or

(B) The applicant has been previously denied a request for authorization by the board to participate in a sponsored event; or

(C) The applicant has previously had an authorization to participate in a sponsored event terminated by the board; or

(D) The applicant has been previously disciplined or denied licensure by the California Board of Occupational Therapy.

(d) Appeal of Denial. An applicant requesting authorization to participate in a sponsored event may appeal the denial of such request by following the procedures set forth in section 4119.

NOTE: Authority cited: Sections 901 and 2570.20, Business and Professions Code. Reference: Section 901, Business and Professions Code.

§ 4119. Termination of Authorization and Appeal.

(a) Grounds for Termination. The board may terminate an out-of-state practitioner's authorization to participate in a sponsored event for any of the following reasons:

(1) The out-of-state practitioner has failed to comply with any applicable provision of this article, or any applicable practice requirement or regulation of the board.

(2) The out-of-state practitioner has committed an act that would constitute grounds for discipline if done by a licensee of the board.

(3) The board has received a credible complaint indicating that the out-of-state practitioner is unfit to practice at the sponsored event or has otherwise endangered consumers of the practitioner's services.

(b) Notice of Termination. The board shall provide both the sponsoring entity or local government entity and the out-of-state practitioner with a written notice of the termination, including the basis for the termination. If the written notice is provided during a sponsored event, the board may provide the notice to any representative of the sponsored event on the premises of the event.

(c) Consequences of Termination. An out-of-state practitioner shall immediately cease his or her participation in a sponsored event upon receipt of the written notice of termination.

Termination of authority to participate in a sponsored event shall be deemed a disciplinary measure reportable to the national practitioner data bank and the healthcare integrity protection data bank. In addition, the board shall provide a copy of the written notice of termination to the licensing authority of each jurisdiction in which the out-of-state practitioner is licensed.

(d) Appeal of Termination. An out-of-state practitioner may appeal the board's decision to terminate an authorization in the manner provided by section 901(j)(2) of the code. The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act.

(e) Agency Conference Option. In addition to requesting a hearing, the out-of-state practitioner may request an informal conference with the executive officer regarding the reasons for the termination of authorization to participate. The executive officer shall, within 30 days from receipt of the request, hold an informal conference with the out-of-state practitioner. At the conclusion of the informal conference, the executive officer may affirm or dismiss the termination of authorization to participate. The executive officer shall state in writing the reasons for his or her action and mail a copy of his or her findings and decision to the out-of-state practitioner within ten days from the date of the informal conference. The out-of-state practitioner does not waive his or her request for a hearing to contest a termination of authorization by requesting an informal conference. If the termination is dismissed after the informal conference, the request for a hearing shall be deemed to be withdrawn.

NOTE: Authority cited: Sections 901 and 2570.20, Business and Professions Code. Reference: Section 901, Business and Professions Code.

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Sponsored Free Health Care Events

Section(s) Affected: Title 16, Division 39, Adopt Sections 4116, 4117, 4118, and 4119.

Introduction

On September 23, 2010, Governor Arnold Schwarzenegger signed AB 2699 (Bass, Chapter 270, Statutes of 2010), enacting Business and Professions Code (BPC) Section 901, which took effect January 1, 2011. This statute provides a regulatory framework for certain health care events at which free care is offered to uninsured or under-insured individuals by volunteer health care practitioners where those practitioners may include individuals who may be licensed in one or more states but are not licensed in California. Prior to this enactment, licensing laws precluded the participation of volunteers licensed outside of California. Section 901 defines "sponsoring entities," "sponsored events," and "health care practitioners," and sets forth requirements for registration of sponsoring entities and authorization for participation by practitioners licensed in other states by the various boards responsible for licensure and regulation of healing arts.

These proposed regulations would implement, interpret, and make specific the provisions of Section 901 by specifying procedures and forms to be used by sponsoring entities and out-of-state practitioners who desire to participate in sponsored events. The board's highest priority is the protection of the public and these proposed regulations are intended to implement Section 901 in a manner that will provide the greatest protection for the people of California.

Specific Purpose of each adoption, amendment, or repeal:

Adopt section 4116 (Definitions) – This section is needed to clarify the language of the statute. Specifically, the definition of "community-based organization" is necessary because there is no statutory definition. The definition of "out-of-state practitioner" is needed to clarify which practitioners the proposed regulations are intended to affect.

Factual Basis/Rationale:
"Community-based organization" is listed in the statute as one type of sponsoring entity. There is no definition of such an entity in state statute. The proposed definition of this term therefore is derived from a federal law (Title 20 USCA section 7801 related to education law) that does contain a definition of "community-based organization." This definition provides much-needed clarity to the term.

The statute defines "health care practitioner" as any person who engages in acts subject to licensure under Division 2 of the Business and Professions Code. The proposed

regulations, along with the operative provisions of Section 901, however, concern specifically health care practitioners licensed to practice occupational therapy in other states and territories. Therefore, in order to provide clarity for purposes of the text of the regulations, the definition of "out-of-state practitioner" is proposed. The definition is based upon the criteria set forth in Section 901(b).

Adopt section 4117(a) (Sponsoring Entity Registration) – This section establishes a timeframe for submission of a sponsoring entity's registration form and prescribes a registration form to be used.

Factual Basis/Rationale:
Sponsoring entities are required under Section 901(d) to register with the board if they will have out-of-state practitioners participating in their sponsored event. Therefore, the proposed regulation implements the statute by providing a form that a sponsoring entity can use to meet this requirement. The form includes space for all of the information required to be submitted under the statute. Also, the proposed regulation requires that sponsoring entities submit their registration forms no later than 90 days prior to the sponsored events. This is proposed in order to allow for sufficient time for review of the registration information and to have the registration in place prior to receipt of participation authorization requests from out-of-state practitioners.

Adopt section 4117(b) (Determination of Completeness of Form) – This section provides a mechanism for the board to delegate the receipt and review of the sponsoring entity registration form along with criteria for accepting or rejecting the registration.

Factual Basis/Rationale:
Because sponsoring entities may be required to register with multiple boards under § 901(d), the proposed regulation allows the board to delegate the authority to receive and process the registration form to the Department of Consumer Affairs. Assuming that all applicable boards make this delegation, the sponsoring entity need only file one registration form and the Department will notify the boards that the sponsoring entity submitted a complete form. This proposed regulation also specifies that the registration form need be complete in order to be accepted and that all deficiencies must be corrected at least 30 days prior to the commencement of the sponsored event. This requirement is needed in order to ensure the board that the entity has provided all required information including the correct contact information for the sponsoring entity when the event commences.

Adopt section 4117(c) (Recordkeeping Requirements) – This section implements and makes specific the recordkeeping requirements of sponsoring entities set forth in Section 901(g).

Factual Basis/Rationale:
Section 901(g) specifies certain records that sponsoring entities must maintain and requires entities to furnish these records upon request to the board. In order to implement these requirements, the proposed regulation specifies that these records must be kept both at the physical premises of the sponsoring event and at a location in California for the

statutorily required five-year period. Having these records available at the event and, thereafter, at a location in California is necessary in order to provide the board with access to the records. Further, the proposed regulation specifies that the records may be kept in either paper or electronic form and that the sponsoring entity shall notify the board upon registration of the form of its records. This provision clarifies that either form of records is acceptable to the board.

Adopt section 4117(d) (Notice) – This section clarifies that authorization must be provided before a sponsoring entity may allow an out-of-state practitioner to participate in a sponsored event.

Factual Basis/Rationale:
Section 901 provides for authorization requirements for out-of-state practitioners and for registration requirements of sponsoring entities. BPC Section 138 requires licensees to provide notification their clients, customers (or patients) that they are licensed by this state. This proposed regulation unifies these requirements by providing a consumer notice of the license status of the occupational therapists and occupational therapy assistants participating in a sponsored event.

Adopt section 4117(e) (Requirement of Prior Board Approval) – This section requires that the sponsoring entity provided notice to the public about the licenses status of the occupational therapists and occupational therapy assistants participating in a sponsored event.

Factual Basis/Rationale:
Section 901 provides for authorization requirements for out-of-state practitioners and for registration requirements of sponsoring entities. This proposed regulation connects the two requirements by clarifying that a sponsoring entity may not permit an out-of-state practitioner to participate in its event unless and until it receives authorization from the board.

Adopt section 4117(f) (Post-event Report) – This section specifies the information to be provided in the report required under § 901(f)

Factual Basis/Rationale:
Section 901(f) requires a report to be filed with the board by a sponsoring entity within 15 days after a sponsored event and sets forth the minimum information to be included. The statute, however, does not provide any information as to the form of the report. The proposed regulation makes clear the board will accept a report in whichever form the sponsoring entity chooses. Also, the proposed regulation includes a requirement of each participating out-of-state practitioner that the license number be included in the report. This information is necessary for the board to identify the participants involved.

Adopt section 4118(a) (Request for Authorization to Participate) – This section provides the mechanism by which an out-of-state practitioner may request authorization to participate in a sponsored event.

Factual Basis/Rationale:
Out-of-state practitioners who desire to participate in a sponsored event must request authorization from the board in accordance with § 901(b). The statute specifically requires the board to prescribe a form and set a processing fee for this purpose. The proposed regulation implements § 901(b) by incorporating proposed FORM 901-B to be submitted by the out-of-state practitioner to the board to request authorization to participate. The form provides space for the applicant to include all of the information required by the statute.

The fee of $50 has been determined by the board as a reasonable amount to cover the costs to the board for processing the authorization, monitoring the on-going participation of the practitioner, and consistent with statutory application fee.

Additionally, the regulation requires the applicant to submit additional material not specifically listed in the statute. First, the applicant must submit personal identifying information including contact information, the individual's social security number, employer's contact information and either a full set of fingerprints or a Live Scan inquiry. These requirement are reasonably necessary in order for the board to verify the requirement o Section 901(b)(1)(B)(i) that the applicant has, "not committed any act or been convicted of a crime constituting grounds for denial of licensure "under BPC Section 480. BPC Section 480 authorizes a board to deny licensure based on an applicant's conviction of a crime. A criminal background check is more easily completed if the board has as much personal identifying information as possible. Further, the board is authorized to require applicants to furnish fingerprints for criminal background checks pursuant to BPC Section 144.

Section 901(b) also provides that applicants seeking authorization to participate must meet the educational and experience requirements determined by the board. The board has determined that graduation from a program approved by the Accreditation Council for Occupational Therapy Education, or otherwise approved by the board, and passage of the examination administered by the National Board for Certification in Occupational Therapy or its predecessor organization, is the minimum standard to practice, nationwide. It is the opinion of the board that these minimum requirements are necessary to protect the public from unqualified practitioners who have not met the board's full requirements for licensure.

<u>Adopt section 4118(b)</u> (Response to Request for Authorization to Participate) – This section sets forth the standard timeframe in which the board shall grant or deny the authorization request.

Factual Basis/Rationale:
§901(b)(1)(A) provides that the board shall notify the sponsoring entity within 20 days of receiving a request for authorization to participate whether that request is approved or denied. The proposed regulation sets forth this statutory requirement and is necessary in order to restate the standard timeframe for response by the board within the context of the regulations.

Adopt section 4118(c) (Denial of Request to Participate) – This section sets forth the criteria under which the board must or may deny a request for authorization to participate.

Factual Basis/Rationale:
The statute provides that the board must authorize the participation of out-of-state practitioners in sponsored events, but it does not list specific criteria for denial of authorization other than if a practitioner, "fails to comply with the requirements of this section or for any act that would be grounds for denial of an application for licensure." Therefore, it is necessary to provide at least some specific detail as to the criteria the board will use beyond the general authorization to deny an application.

The board has determined that the failure of an applicant to respond within seven days to a request for additional information will result in an automatic denial of a request. Because the board only has 20 days in which to grant or deny a request, timing is critical and the board's opinion is that failure of an applicant to respond within seven calendar days will sufficiently jeopardize the board's ability to effectively review a complete application within the allotted time.

Further, a failure to meet any of the specified educational and experience requirements determined by the board and discussed under section 4118(a) of these proposed regulations will constitute an automatic denial of the application. The Board has determined that these criteria are necessary to protect the public from practitioners that have not met the board's full requirements for licensure.

The proposed regulation also sets forth discretionary reasons for denying a request. The first of these is that the application is not received within 20 days prior to the event. § 901(b)(1)(A) provides that the board shall use reasonable efforts to notify the sponsoring entity within this time. The proposed regulation, however, provides needed clarity to the statute that, in the event that the statutorily required reasonable efforts are insufficient to review the application in advance of the event, the board may then deny the request. It would be counter to the board's consumer protection mandate to require it to grant authorization to an individual whose request is submitted in so short a time before the scheduled event that it cannot adequately be reviewed.

The other discretionary reasons for denial are based upon the past actions of the board with respect to that particular individual. The board is of the opinion that if an applicant has previously had an application denied or an authorization terminated, this alone may be cause for a subsequent denial. Because the time for review of the authorization is only 20 days, the board may not have time to revisit the case of an individual who has already been determined by the board as unfit to participate. The board feels that it is reasonable, however, to consider this a discretionary decision so that, on a case-by-case basis, the board can reevaluate a particular individual's circumstances as appropriate if sufficient time exists to do so without compromising public protection.

Adopt section 4118(d) (Appeal of Denial) – This section provides an appeal procedure for an applicant who has had a request for authorization to participate denied by the board.

Factual Basis/Rationale:
Section 901 allows for the denial of a request for authorization to participate, but it does not provide any appeal procedure for the denied individual. In order to ensure some measure of due process, the board feels that applicants should have access to the same appeal process available to an applicant who has had his or her application denied. Therefore, the proposed regulation references the appeal procedure in section 4119 of these proposed regulations. This will provide consistency in the appeals process.

Adopt section 4119(a) (Grounds for Termination of Authorization) – This section provides the grounds upon which the board may terminate the authorization to participate previously granted to an out-of-state practitioner.

Factual Basis/Rationale:
The first two grounds for termination listed in the proposed regulation are consistent with Section 901(j)(1). As an additional ground for termination, the proposed regulation adds the receipt of a credible complaint indicating that the practitioner is unfit to practice or is endangering the public. This provision is necessary in order for the board to act consistently with its mandate that protection of the public is its highest priority. Because of the permissive and temporary nature of the licensure exemption granted under Section 901, and the limited time which the board has to review and verify the qualifications of the out-of-state practitioner, the board feels that it is essential that it may act immediately to terminate the authorization to participate granted to the non-California licensed individual when a credible complaint of endangerment is received.

Adopt section 4119(b) (Notice of Termination) – This section specifies written notice of a termination may be given during a sponsored event.

Factual Basis/Rationale:
The statute provides that written notice of a termination shall be given to both the sponsoring entity as well as the individual practitioner. This proposed regulation is necessary to clarify that in the event an authorization to practice is terminated during the course of a sponsored event, the board may also provide notice to any representative of the sponsoring entity on the premises of the event. The most expeditious way to notify the entity is at the event itself so that the practitioner will be instructed to cease practice immediately.

Adopt section 4119(c) (Consequences of Termination) – This section sets forth the consequences of a termination of an authorization to participate and how the board will report the fact of the termination.

Factual Basis/Rationale:
§ 901(j)(3) provides that out-of-state practitioners shall not provide services under this statute following a termination of authorization. The proposed regulation specifies that the practitioner shall "immediately" cease their participation in the event. The board feels that this clarification is necessary in the event that a termination is issued during the course of an event. In case there is any confusion as to when the termination becomes effective,

this proposed provision would be necessary to remove any doubt that the practitioner must immediately desist from participation as soon as the termination notice is received.

The proposed regulation also provides that the board will consider a termination of authorization a disciplinary measure that is reportable to the national practitioner data bank, the healthcare integrity and protection data bank, and the individual's out-of-state licensing authority(ies). The board views these provisions as reasonably necessary and logical in order to protect the public. The grounds for termination are criteria that the board itself would consider as disciplinary measures for its own licensees.

Therefore, because the board does not have licensing authority over the out-of-state practitioner, its only disciplinary remedy is to report the conduct to the individual's home jurisdiction and applicable national practitioner data bases. If the conduct is such that it would lead to action against the practitioner's out-of-state license, then the board would have that information available in the event that the individual applied for either a subsequent authorization to participate in a future sponsored event or a license to practice in California.

Adopt section 4119(d) (Appeal of Termination) – This section provides the procedure for appealing denials of authorization and terminations of authorizations to participate.

Factual Basis/Rationale:
The statute allows for an out-of-state practitioner who has had his or her authorization to participate terminated by the board to file a written appeal to the board within 30 days of receipt of the termination notice. The proposed regulation specifies that this request for appeal shall be considered a request for an informal hearing under the Administrative Procedure Act (APA). This is potentially a less costly system than the formal hearing procedure and is warranted for removal of this type of authorization.

Adopt section 4119(e) (Informal Conference Option) – This section provides an alternative to a hearing under the APA for appeals submitted by out-of-state practitioners.

Factual Basis/Rationale:
Section 901(j) allows for the filing of an appeal by an out-of-state practitioner. In addition to the APA sets forth in proposed section 4119(d), the proposed regulation also offers the appealing out-of-state practitioner the option of an informal conference with the board's executive officer to try and resolve the appeal. This proposed regulation is consistent with the board's practice for its own licensees who have been issued a citation (BPC 125.9 and 148 and CCR Sections 4140). This provides an inexpensive option to ensure the efficient resolution of appeals when possible. The informal conference option proposed does not affect the right to a hearing under the APA.

Business Impact

These regulations will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

The regulation only impacts nonprofit organizations sponsoring free health care events and practitioners from other states volunteering in California. There is some impact to out-of-state volunteers in that they will be required to submit the processing fee to receive authorization to participate. This fee will have to be factored into the cost of that individual's volunteering. The fee may be covered by sponsoring entities, who will also incur minor costs with respect to maintaining records for their volunteers, reporting to the Board after the event and filing a registration as appropriate. Those costs are imposed by the statute and not by these regulations.

Description of alternatives which would lessen any significant adverse impact on business:

N/A

Specific Technologies or Equipment

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

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation. The board is directed by statute to develop these regulations and there is, thus, no other method of developing the forms and procedure for registering sponsoring entities and granting authorization for requests by out-of-state practitioners to participate in sponsored events.

One possible alternative is to delay or refrain from promulgating any regulations – i.e., maintain the status quo. This is not reasonable because the statute contemplates a registration and fee process to be developed by the board to implement the statute. By not creating a procedure, the board would frustrate the purpose of the statute, which is intended to provide an opportunity for out-of-state licensed volunteers to participate in certain free health care events. Also, it is not reasonable to delay because the statute has a sunset date of January 1, 2014. Because the statute is only effective for three years, it is incumbent on the board to implement the required processes as soon as possible.

SPONSORED FREE HEALTH CARE EVENTS

REGISTRATION OF SPONSORING ENTITY UNDER BUSINESS & PROFESSIONS CODE SECTION 901

In accordance with California Business and Professions Code Section 901(d), a non-government organization administering an event to provide health care services to uninsured and underinsured individuals at no cost may include participation by certain health care practitioners licensed outside of California if the organization registers with the California licensing authorities having jurisdiction over those professions. This form shall be completed and submitted by the sponsoring organization **at least 90 calendar days prior to the sponsored event**. *Note that the information required by Business and Professions Code Section 901(d) must also be provided to the county health department having jurisdiction in each county in which the sponsored event will take place.*

PART 1 – ORGANIZATIONAL INFORMATION

1. Organization Name: _____

2. Organization Contact Information (*use principal office address*):

Address Line 1 _____

Address Line 2 _____

City, State, Zip _____

County _____

Phone Number of Principal Office _____

Alternate Phone _____

Website _____

Organization Contact Information in California (*if different*):

Address Line 1 _____

Address Line 2 _____

City, State, Zip _____

County _____

Phone Number _____

Alternate Phone _____

3. Type of Organization:

Is the organization operating pursuant to Section 501(c)(3) of the Internal Revenue Code? ____ Yes ____ No

If not, is the organization a community-based organization*?
____ Yes ____ No

Organization's Tax Identification Number _____

If a community-based organization, please describe the mission, goals and activities of the organization (*attach separate sheet(s) if necessary*): _____

_____
_____
_____
_____
_____
_____

* A "community based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

PART 2 – RESPONSIBLE ORGANIZATION OFFICIALS

Please list the following information for each of the principal individual(s) who are the officers or officials of the organization responsible for operation of the sponsoring entity.

Individual 1:

Name _____ Title _____

Address Line 1 _____ Phone _____

Address Line 2 _____ Alternate Phone _____

City, State, Zip _____ E-mail address _____

County _____

Individual 2:

Name _____ Title _____

Address Line 1 _____ Phone _____

Address Line 2 _____ Alternate Phone _____

City, State, Zip _____ E-mail address _____

County _____

Individual 3:

Name	Title
Address Line 1	Phone
Address Line 2	Alternate Phone
City, State, Zip	E-mail address
County	

(Attach additional sheets if needed to list additional principal organizational individuals)

PART 3 – EVENT DETAILS

1. Name of event, if any: _____

2. Date(s) of event (not to exceed ten calendar days): _____

3. Location(s) of the event (be as specific as possible, including address):

_____
_____
_____
_____

4. Describe the intended event, including a list of all types of healthcare services intended to be provided (*attach additional sheet(s) if necessary*): _____

_____
_____
_____
_____
_____
_____

5. Attach a list of all out-of-state health care practitioners who you currently believe intend to apply for authorization to participate in the event. The list should include the name, profession, and state of licensure of each identified individual.

___ *Check here to indicate that list is attached.*

Note:

- Each individual out-of-state practitioner must request authorization to participate in the event by submitting an application (Form 901-B) to the applicable licensing Board/Committee.
- The organization will be notified in writing whether authorization for an individual out-of-state practitioner has been granted.

This form, any attachments, and all related questions shall be submitted to:

Department of Consumer Affairs
Attn: Sponsored Free Health Care Events
Legislative and Policy Review Division
1625 North Market Blvd., Ste. S-204
Sacramento, CA 95834

Tel: (916) 574-7800
Fax: (916) 574-8655
E-mail: lprdivision@dca.ca.gov

- I understand that I must maintain records in either electronic or paper form both at the sponsored event and for five (5) years in California, per the recordkeeping requirements imposed by California Business and Professions Code Section 901 and the applicable sections of Title 16, California Code of Regulations for the regulatory bodies with jurisdiction over the practice to be engaged in by out-of-state practitioners
- I understand that our organization must file a report with each applicable board/committee within fifteen (15) calendar days of the completion of the event.

I certify under penalty of perjury under the laws of the State of California that the information provided on this form and any attachments is true and current and that I am authorized to sign this form on behalf of the organization:

Name Printed	Title
Signature	Date

SPONSORED FREE HEALTH CARE EVENTS

REGISTRATION OF SPONSORING ENTITY UNDER BUSINESS & PROFESSIONS CODE SECTION 901

In accordance with California Business and Professions Code Section 901(d), a non-government organization administering an event to provide health care services to uninsured and underinsured individuals at no cost may include participation by certain health care practitioners licensed outside of California if the organization registers with the California licensing authorities having jurisdiction over those professions. This form shall be completed and submitted by the sponsoring organization **at least 90 calendar days prior to the sponsored event**. *Note that the information required by Business and Professions Code Section 901(d) must also be provided to the county health department having jurisdiction in each county in which the sponsored event will take place.*

PART 1 – ORGANIZATIONAL INFORMATION

1. Organization Name: _____

2. Organization Contact Information (*use principal office address*):

Address Line 1 _____ Phone Number of Principal Office _____

Address Line 2 _____ Alternate Phone _____

City, State, Zip _____ Website _____

County _____

Organization Contact Information in California (*if different*):

Address Line 1 _____ Phone Number _____

Address Line 2 _____ Alternate Phone _____

City, State, Zip _____

County _____

3. Type of Organization:

Is the organization operating pursuant to Section 501(c)(3) of the Internal Revenue Code? ____ Yes ____ No

If not, is the organization a community-based organization*?
____ Yes ____ No

Organization's Tax Identification Number _____

If a community-based organization, please describe the mission, goals and activities of the organization (*attach separate sheet(s) if necessary*): _____

_____
_____
_____
_____
_____
_____

* A "community based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

PART 2 – RESPONSIBLE ORGANIZATION OFFICIALS

Please list the following information for each of the principal individual(s) who are the officers or officials of the organization responsible for operation of the sponsoring entity.

Individual 1:

Name	Title
Address Line 1	Phone
Address Line 2	Alternate Phone
City, State, Zip	E-mail address
County	

Individual 2:

Name	Title
Address Line 1	Phone
Address Line 2	Alternate Phone
City, State, Zip	E-mail address
County	

Individual 3:

Name	Title
Address Line 1	Phone
Address Line 2	Alternate Phone
City, State, Zip	E-mail address
County	

(Attach additional sheets if needed to list additional principal organizational individuals)

PART 3 – EVENT DETAILS

1. Name of event, if any: _____

2. Date(s) of event (not to exceed ten calendar days): _____

3. Location(s) of the event (be as specific as possible, including address):

_____
_____
_____
_____

4. Describe the intended event, including a list of all types of healthcare services intended to be provided (*attach additional sheet(s) if necessary*): _____

_____
_____
_____
_____
_____
_____

5. Attach a list of all out-of-state health care practitioners who you currently believe intend to apply for authorization to participate in the event. The list should include the name, profession, and state of licensure of each identified individual.

___ *Check here to indicate that list is attached.*

Note:

- Each individual out-of-state practitioner must request authorization to participate in the event by submitting an application (Form 901-B) to the applicable licensing Board/Committee.
- The organization will be notified in writing whether authorization for an individual out-of-state practitioner has been granted.

This form, any attachments, and all related questions shall be submitted to:

Department of Consumer Affairs
Attn: Sponsored Free Health Care Events
Legislative and Policy Review Division
1625 North Market Blvd., Ste. S-204
Sacramento, CA 95834

Tel: (916) 574-7800
Fax: (916) 574-8655
E-mail: lprdivision@dca.ca.gov

- I understand that I must maintain records in either electronic or paper form both at the sponsored event and for five (5) years in California, per the recordkeeping requirements imposed by California Business and Professions Code Section 901 and the applicable sections of Title 16, California Code of Regulations for the regulatory bodies with jurisdiction over the practice to be engaged in by out-of-state practitioners
- I understand that our organization must file a report with each applicable board/committee within fifteen (15) calendar days of the completion of the event.

I certify under penalty of perjury under the laws of the State of California that the information provided on this form and any attachments is true and current and that I am authorized to sign this form on behalf of the organization:

Name Printed	Title
Signature	Date

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
PROPOSED MODIFIFIED REGULATORY LANGUAGE
Title 16, Division 39, California Code of Regulations
Sections 4116, 4117, 4141~~8~~, and 4119

Proposed modified language is shown by strikeout for deleted text and underline for new modified language.

Add Article 2.1 to Division 39 of Title 16 to read as follows:

Article 2.1.

Sponsored Free Health Care Events—Requirements for Exemption.

§4116. Definitions.

For the purposes of section 901 of the Business and Professions Code:

(a) "Community-based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

(b) "Out-of-state practitioner" means a person who is not licensed in California to engage in the practice of occupational therapy, ~~nor has previously had an application denied by the Board,~~ but who holds a current valid and unrestricted license, registration, or certificate in good standing in another state, district, or territory of the United States to practice as an occupational therapist or occupational therapy assistant.

NOTE: Authority cited: Sections 901 and 2570.20, Business and Professions Code. Reference: Section 901, Business and Professions Code.

§4117. Sponsoring Entity Registration and Recordkeeping Requirements.

(a) Registration. A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under section 901 of the code shall register with the board not later than 90 calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsoring entity shall register with the board by submitting to the board, or its designee, a completed "Sponsored Free Health Care Events-Registration of Sponsoring Entity Under Business and Professions Code Section 901" Form ~~CBOT~~ 901-A (~~Rev. 9/2011~~ DCA/2011), which is hereby incorporated by reference.

(b) Determination of Completeness of Form. The board may, by resolution, delegate to the Department of Consumer Affairs the authority to receive and process Form ~~CBOT~~ 901-A (~~Rev. 9/2011~~ DCA/2011) on behalf of the Board. The Board or its delegatee shall inform the sponsoring entity in writing within 20 calendar days of receipt of the form that the form is either complete and the sponsoring entity is registered or that the form is deficient and what specific information or documentation is required to complete the form and be registered. The board shall

reject the registration if all of the identified deficiencies have not been corrected at least 30 days prior to the commencement of the sponsored event.

(c) Recordkeeping Requirements. Regardless of where it is located, a sponsoring entity shall maintain at a physical location in California a copy of all records required by section 901 as well as a copy of the authorization for participation issued by the board to an out-of-state practitioner. The sponsoring entity shall maintain these records for a period of at least five years after the date on which a sponsored event ended. The records may be maintained in either paper or electronic form. The sponsoring entity shall notify the board at the time of registration as to the form in which it will maintain the records. In addition, the sponsoring entity shall keep a copy of all records required by section 901(g) of the code at the physical location of the sponsored event until that event has ended. These records shall be available for inspection and copying during the operating hours of the sponsored event upon request of any representative of the board.

(d) Notice. A sponsoring entity shall place a notice visible to patients at every station where patients are being seen by an occupational therapist or occupational therapy assistant. The notice shall be in at least 48 point type in Arial font and shall include the following statement and information:

NOTICE

Occupational therapists and occupational therapy assistants providing health care services at this health fair are either licensed and regulated by the California Board of Occupational Therapy or hold a current valid license from another state and have been authorized to provide health care services in California only at this specific health fair.

For more information:

CA Board of Occupational Therapy
1-800-952-5210 or 1-916-263-2294
www.bot.ca.gov

(e) Requirement for Prior Board Approval of Out-of-State Practitioner. A sponsoring entity shall not permit an out-of-state practitioner to participate in a sponsored event unless and until the sponsoring entity has received written approval from the board confirming that the out-of-state practitioner has been approved to participate in the event.

(f) Report. Within 15 calendar days after a sponsored event has concluded, the sponsoring entity shall file a report with the board summarizing the details of the sponsored event. This report may be in a form of the sponsoring entity's choosing, but shall include, at a minimum, the following information:

(1) The date(s) of the sponsored event;
(2) The location(s) of the sponsored event;
(3) The type(s) and general description of all health care services provided at the sponsored event; and
(4) A list of each out-of-state practitioner granted authorization pursuant to this article who participated in the sponsored event, along with the license number of that practitioner.

NOTE: Authority cited: Sections 901 and 2570.20, Business and Professions Code. Reference: Section 901, Business and Professions Code.

§ 4118. Out-of-State Practitioner Authorization to Participate in Sponsored Event

(a) Request for Authorization to Participate. An out-of-state practitioner ("applicant") may request authorization from the board to participate in a sponsored event and provide such health care services at the sponsored event as would be permitted if the applicant were licensed by the board to provide those services. An applicant shall request authorization by submitting to the board a completed "Request for Authorization to Practice Without a California License at a Registered Health Care Event" Form CBOT 901-B (Rev. 09/2011), which is hereby incorporated by reference, accompanied by a non-refundable, non-transferable processing fee of fifty dollars ($50). The applicant shall also furnish either a full set of fingerprints or submit a Live Scan inquiry to establish the identity of the applicant and to permit the board to conduct a criminal history record check. The applicant shall pay any costs for furnishing the fingerprints and conducting the criminal history record check. ~~This~~ The fingerprint and criminal history check requirement shall apply only to the first application for authorization that is submitted by the applicant.

(b) Response to Request for Authorization to Participate. Within 20 calendar days of receiving a completed request for authorization, the board shall notify the sponsoring entity or local governmental entity whether that request is approved or denied.

(c) Denial of Request for Authorization to Participate.

(1) The board shall deny a request for authorization to participate if:

(A) The submitted form is incomplete and the applicant has not responded within 7 calendar days to the board's request for additional information; or

(B) The applicant has not graduated from a school or program approved by the Accreditation Council for Occupational Therapy Education, its predecessor organization, or otherwise approved by the board; or

(C) The applicant has not passed the examination administered by the National Board for Certification in Occupational Therapy or its predecessor organization; or

(D) The applicant has failed to comply with a requirement of this article or has committed any act that would constitute grounds for denial of an application for licensure by the board; or

(E) The applicant does not possess a current, active, and valid license in good standing.

The term "good standing" means the applicant:

~~(i)~~ 1. Has not been charged with an offense for any act substantially related to the practice for which the applicant is licensed by any public agency;

~~(ii)~~ 2. Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed upon the applicant's professional conduct or practice, including any voluntary surrender of license;
~~(iii)~~ 3. Has not been the subject of an adverse action nor judgment resulting from the practice for which the applicant is licensed that the board determines constitutes evidence of a pattern o~~r~~f negligence or incompetence.

(F) The board has been unable to obtain a timely report of the results of the criminal history check.

(G) The applicant has been previously disciplined or denied licensure by the California Board of Occupational Therapy.

(2) The board may deny a request for authorization to participate if:

(A) The request is received less than 20 calendars days before the date on which the sponsored event will begin; or

(B) The applicant has been previously denied a request for authorization by the board to participate in a sponsored event; or

(C) The applicant has previously had an authorization to participate in a sponsored event terminated by the board; or

~~(D) The applicant has been previously disciplined or denied licensure by the California Board of Occupational Therapy.~~

(d) Appeal of Denial. An applicant requesting authorization to participate in a sponsored event may appeal the denial of such request by following the procedures set forth in section 4119(d) and/or (e).

NOTE: Authority cited: Sections 901 and 2570.20, Business and Professions Code. Reference: Section 901, Business and Professions Code.

§ 4119. Termination of Authorization and Appeal.

(a) Grounds for Termination. The board may terminate an out-of-state practitioner's authorization to participate in a sponsored event for any of the following reasons:

(1) The out-of-state practitioner has failed to comply with any applicable provision of this article, or any applicable practice requirement or regulation of the board.

(2) The out-of-state practitioner has committed an act that would constitute grounds for discipline if done by a licensee of the board.

(3) The board has received a credible complaint indicating that the out-of-state practitioner is unfit to practice at the sponsored event or has otherwise endangered consumers of the practitioner's services.

(b) Notice of Termination. The board shall provide both the sponsoring entity or local government entity and the out-of-state practitioner with a written notice of the termination, including the basis for the termination. If the written notice is provided during a sponsored event, the board may provide the notice to any representative of the sponsored event on the premises of the event.

(c) Consequences of Termination. An out-of-state practitioner shall immediately cease his or her participation in a sponsored event upon receipt of the written notice of termination.

Termination of authority to participate in a sponsored event shall be deemed a disciplinary measure reportable to the national practitioner data bank and the healthcare integrity protection data bank. In addition, the board shall provide a copy of the written notice of termination to the licensing authority of each jurisdiction in which the out-of-state practitioner is licensed.

(d) Appeal of Termination. An out-of-state practitioner may appeal the board's decision to terminate an authorization in the manner provided by section 901(j)(2) of the code. The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act.

(e) Agency Conference Option. In addition to requesting a hearing, the out-of-state practitioner may request an informal conference with the executive officer regarding the reasons for the termination of authorization to participate. The executive officer shall, within 30 days from receipt of the request, hold an informal conference with the out-of-state practitioner. At the conclusion of the informal conference, the executive officer may affirm or dismiss the termination of authorization to participate. The executive officer shall state in writing the reasons for his or her action and mail a copy of his or her findings and decision to the out-of-state practitioner within ten days from the date of the informal conference. The out-of-state practitioner does not waive his or her request for a hearing to contest a termination of authorization by requesting an informal conference. If the termination is dismissed after the informal conference, the request for a hearing shall be deemed to be withdrawn.

NOTE: Authority cited: Sections 901 and 2570.20, Business and Professions Code. Reference: Section 901, Business and Professions Code.

TITLE 16. CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (CBOT) is proposing to take the action described in the Informative Digest. Any person interested may submit statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or email to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 pm on September 5, 2011.

The Board does not intend to hold a hearing in this matter. If any interested party wishes that a hearing be held, he or she must make the request in writing to the CBOT. The request must be received in the CBOT office not later than 5:00 pm August 22, 2011.

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

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CBOT proposes to amend Section 4155 of Article 6 of Division 39 of Title 16 of the California Code Regulations. Existing Section 4155(a)(2) requires occupational therapists who seek approval to provide advanced practice services in physical agent modalities to submit an application, Form APP, Rev 10/09 to the CBOT. The proposal contained herein seeks to establish that a new revised application would be required to be submitted by striking reference to Form APP, Rev 10/09, and replacing it with, APP, Rev 07/11, which is incorporated by reference. Recent regulatory changes that became operative May 28, 2011, no longer require a therapist to submit a statement of learning as part of their application for advanced practice approval. The new revised application (APP, Rev 07/11) deletes instruction and reference for therapists to provide a statement of learning as part of the application.

Document Incorporated by Reference: Application for Advanced Practice Approval in Physical Agent Modalities (Form APP, Rev 07/11).

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: Minor.

Non-discretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact: The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above Determination: None.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

There is no impact on private business or representative private persons, except to clarify licensee representations that demonstrate professional qualifications of occupational therapy practitioner(s) to be in a manner inconsistent with the public health, safety or welfare. The only impact on private business or representative private persons is beneficial.

EFFECT ON HOUSING COSTS: None

EFFECT ON SMALL BUSINESS:

The Board has determined that the proposed regulation has no effect on small business. Current regulations require the submission of an application to seek Board approval to provide these services. The proposed regulation contained herein merely establishes and specifies that a newly revised application will be required to be submitted.

CONSIDERATION OF ALTERNATIVES:

The Board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed, or be as effective as and less burdensome to affected private persons than the proposal described in this Notice.

TEXT OF PROPOSAL AND INITIAL STATEMENT OF REASONS AND INFORMATION:

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

Copies of the exact language of the proposed regulation, any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained from the Board's website as listed below or upon written request from the contact person listed below.

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

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

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

CONTACT PERSON:

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

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

The backup contact person is:

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

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

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY REGULATIONS
PROPOSED AMENDED REGULATORY LANGUAGE
Title 16, Division 39, California Code of Regulations
Section 4155

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

§ 4155. Application for Approval in Advanced Practice Areas.

In order to provide the advanced practice services set forth in Code section 2570.3(d), an occupational therapist shall apply to the Board and receive approval in that advanced practice area.
(a) To apply for approval, an occupational therapist shall submit to the Board, an application as specified in subsections (1), (2) or (3), along with the required documentation.
(1) Applicants seeking approval in the area of Hand Therapy shall submit the Application for Advanced Practice Approval in Hand Therapy (Form APH, Rev 10/09), hereby incorporated by reference;
(2) Applicants seeking approval in the use of physical agent modalities, shall submit the Application for Advanced Practice Approval in Physical Agent Modalities (Form APP, Rev ~~10/09~~ 07/11), hereby incorporated by reference;
(3) Applicants seeking approval in the area of Swallowing Assessment, Evaluation, or Intervention, shall submit the Application for Advanced Practice Approval in Swallowing (Form APS, Rev 10/09), hereby incorporated by reference;
(b) The documentation must include the following:
(1) Documented proof of attendance and completion of each course (i.e., certificate of completion or transcript).
(2) Evidence of the number of contact hours completed for each course for courses that are not Board approved.
(3) Outline or syllabus of each course for courses that are not Board approved.
(4) Information describing, in detail, the depth and breadth of the content covered (e.g., a course syllabus and the goals and objectives of the course) as it relates to the advanced practice area.
(5) Resume or credentials of each instructor for courses that are not Board approved.
(6) Verification of completion of supervised on-the-job training, clinical internship or affiliation reflecting the nature of the training and the number of hours. Such verification must be signed by the supervisor(s) under penalty of perjury.
(c) An advanced practice application not completed within six months of receipt or notification of deficiency, whichever is later, shall be deemed abandoned.
(d) An application submitted subsequent to the abandonment of a previous application shall be treated as a new application.

Note: Authority cited: Sections 2570.3 and 2570.20 Business and Professions Code. Reference: Sections 2570.2 and 2570.3, Business and Professions Code.

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR

BOARD OF OCCUPATIONAL THERAPY
2005 Evergreen Street, Suite 2050, Sacramento, CA 95815
T: (916) 263-2294 F: (916) 263-2701
E-mail: cbot@dca.ca.gov Web: www.bot.ca.gov

APPLICATION FOR ADVANCED PRACTICE APPROVAL – *PHYSICAL AGENT MODALITIES*

(Please read the *Information and Instruction Sheet* before completing the application. Print clearly or type all information.)

DRAFT

Section I: Personal Data (Please Complete All Boxes)

A. Last Name		B. First Name		C. Middle Name
D. Residence Address (Street No., Apt No.)		City	State	Zip Code
E. OT License No.	F. Home Telephone No. ( )	G. Business Telephone No. ( )	H. E-Mail Address	
I. Current Employer		J. Supervisor First Name	K. Supervisor Last Name	

Section II: Affidavit

I hereby declare that I am the person named in this application and that I have read the complete application and know the contents thereof. **I declare, under penalty of perjury of the laws of the State of California, that all of the information contained herein and evidence or other credentials submitted herewith are true and correct.** I understand that falsification or misrepresentation of any item or response on this application or any attachment hereto, is sufficient grounds for denial, suspension or revocation of a license to practice as an occupational therapist in the State of California.

Signature of Applicant _____ Date _____

Information Collection and Access – The Board's executive officer is the person responsible for information maintenance. Business and Professions Code section 2570.18 gives the Board authority to maintain information. All information is mandatory. Failure to provide any mandatory information will result in the application being rejected as incomplete. The information provided will be used to determine qualification for advanced practice approval. Each individual has the right to review his or her file maintained by the agency subject to the provisions of the California Public Records Act.

Approval in an advanced practice area demonstrates entry-level competency in the area approved. Approval does not represent expertise in this area and should not be misrepresented as such. Pursuant to Title 16, California Code of Regulations, Section 4170(f)(1) of the Ethical Standards of Practice, occupational therapists are required to accurately represent their credentials, qualifications, education, experience, training, and competency. Further, Section 4170(d) states that occupational therapists shall perform services only when they are qualified by education, training, and experience to do so.

Section III: POST PROFESSIONAL EDUCATION AND TRAINING SUMMARY SHEET – PHYSICAL AGENT MODALITIES:

PHYSICAL AGENT MODALITIES EDUCATION (Minimum of 30 Contact Hours Required*):

# of Hours: Course Title:

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ Total Contact Hours

PHYSICAL AGENT MODALITIES TRAINING (Minimum of 60 Supervised Hours Required*):

# of Hours: Name of Facility:

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ Total Supervised Hours

* Eight (8) hours of education and sixty (60) hours of supervised on the job training in physical agent modalities can be applied towards meeting the education and training requirements for hand therapy. No other courses or hours can count for advanced practice approval in both hand therapy and physical agent modalities.

DRAFT

Section IV: Post-Professional Education (Copy this form and use a separate form for each course submitted.)

Name of Course: _____

Number of Contact Hours: _____

Name of Course Provider: _____

Date Completed: _____

(Course(s) must have been taken within the 5 years immediately preceding your application for approval. A Copy of Certificate of Completion must be attached for each course.)

Required content areas – Please indicate the areas covered by the above-named course:

- ☐ Anatomy and physiology of muscle, sensory, vascular, and connective tissue in response to the application of physical agent modalities.
- ☐ Principles of chemistry and physics related to the selected modality.
- ☐ Physiological, neurophysiological, and electrophysiological changes that occur as a result of the application of a modality.
- ☐ Guidelines for the preparation of the patient, including education about the process and possible outcomes of treatment.
- ☐ Safety rules and precautions related to the selected modality.
- ☐ Methods for documenting immediate and long-term effects of treatment.
- ☐ Characteristics of the equipment, including safe operation, adjustment, indications of malfunction, and care.

A Copy of Certificate of Completion must be attached for each course.

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Section V: Post-Professional Training (Copy this form and use a separate form for each training and/or affiliation.)

NOTE TO SUPERVISOR: You are being asked to provide information for an OT seeking approval to provide physical agent modalities. Please complete this form and return it to the OT so that it can be included in his/her application packet.

This training represents _____ hours of experience in ***physical agent modalities*** *acquired* between _____(month/day/year) and _____ (month/day/year).

Supervisor's Name: _____
First Last

License Type/Number: _____ Supervisor's Phone #: _____
e.g., OT, PT, MD

Name and Address of Facility
Where Training Occurred: _____

_____

Is _____ **competent in providing physical agent modalities?**
OT applicant's name

☐ YES, competence has been demonstrated in the area of physical agent modalities.
☐ NO, competence has not been demonstrated in the area of physical agent modalities.

Please identify the knowledge, skills and abilities demonstrated by the OT:

_____

_____

_____

_____

_____

By signing below, YOU certify that you were the clinical supervisor for training hours noted above and that the timeframes and hours listed are true and correct.

Supervisor's Signature: _____ Date: _____

Note to Supervisor:

- **Until the Board approves this applicant, you have continuing supervisory responsibility *even if the "training" period has ended,* IF the OT is providing hand therapy and you are both employed at the location named above.**

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ENFORCEMENT DATA AND REPORTS.

Attached are the following:

- Citations issued for the period 10/1 – 12/31/2011.
- Enforcement Statistical reports for the period 10/1 – 12/31/2011.
- Listing of current probationers.

CITATIONS ISSUED
10/1/11 - 12/31/11

#	LICENSURE CLASSIFICATION				VIOLATION						CIT. #	FINE (OT)	OT Fine Modified	GRAND TOTAL FINE DUE (OT)	FINE (OTA)	OTA Fine Modified	GRAND TOTAL FINE DUE (OTA)	DATE ISSUED	DUE DATES		Appeal Rcvd		PAYMENT			
	OT	OTA	Exp. Date	No Lic	FDC	UPC	CC	ULP	PDU	AD									Req For Conf.	Fine	ICR	ADMIN	Pymnt Date	Pymnt Amnt	Bal (OT)	Bal (OTA)
1	1		09/30/13							1	OT 2011-23	$50		$50				10/04/11	11/03/11	11/03/11			11/03/11	$50	$0	
1		1	05/31/11							1	OA 2011-7				$50		$50	10/04/11	11/03/11	11/03/11						$50
1	1		09/30/11							1	OT 2011-24	$50		$50				10/04/11	11/03/11	11/03/11			10/26/11	$50	$0	
1		1	11/30/12			1					OA 2008-83				$1,000		$1,000	10/05/11	11/04/11	11/04/11			10/26/11	$1,000		$0
1	1		09/30/11							1	OT 2011-6	$50		$50				10/07/11	11/06/11	11/06/11			10/12/11	$50	$0	
1	1		09/30/11							1	OT 2011-16	$50		$50				10/07/11	11/06/11	11/06/11			11/09/11	$50	$0	
1	1		09/30/11							1	OT 2011-12	$50		$50				10/07/11	11/06/11	11/06/11	1				$50	
1		1	03/31/13			1					AR 2010-614				$500		$500	10/11/11	11/10/11	11/10/11			12/08/11	$500		$0
1	1		09/30/13	1							AL 2011-20	$250		$250				10/11/11	11/10/11	11/10/11			11/07/11	$250	$0	
1		1	06/30/13							1	OA 2011-33				$50		$50	10/13/11	11/12/11	11/12/11						$50
1	1		06/30/13							1	OT 2011-52	$50		$50				10/25/11	11/24/11	11/24/11			11/07/11	$50	$0	
1	1		06/30/13							1	OT 2011-18	$50		$50				10/25/11	11/24/11	11/24/11			11/18/11	$50	$0	
1		1	10/31/11							1	OA 2011-60				$50		$50	10/28/11	11/27/11	11/27/11						$50
1	1		10/31/11							1	OT 2011-59	$50		$50				10/28/11	11/27/11	11/27/11			11/14/11	$50	$0	
1		1	05/31/13					1			OA 2011-47				$450		$450	10/28/11	11/27/11	11/27/11			11/14/11	$450		$0
1	1		10/31/11							1	OT 2011-81	$50		$50				11/15/11	12/15/11	12/15/11			12/14/11	$50	$0	
1		1	06/30/12						1		OA 2010-680				$250	$250	$0	11/09/11	12/09/11	12/09/11	1		DISMISSED			$0
1	1		07/31/12						1		OT 2011-77	$50		$50				11/09/11	12/09/11	12/09/11			11/16/11	$50	$0	
1	1		07/31/12						1		OT 2011-54	$250	$250	$0				11/09/11	12/09/11	12/09/11	1		DISMISSED		$0	
1	1		10/31/13							1	OT 2011-107	$50		$50				11/09/11	12/09/11	12/09/11			11/16/11	$50	$0	
1	1		10/31/13							1	OT 2011-70	$50		$50				11/29/11	12/29/11	12/29/11			12/19/11	$50	$0	
1	1		10/31/13							1	OT 2011-89	$50		$50				12/06/11	01/05/11	01/05/11			12/16/11	$50	$0	
1	1		10/31/13							1	OT 2011-71	$50	$50	$0				12/06/11	01/05/11	01/05/11	1		WITHDRAWN		$0	
1	1		10/31/13							1	OT 2011-69	$50		$50				12/06/11	01/05/11	03/03/12			02/13/12	$50	$0	
1	1		10/31/13							1	OT 2011-73	$50		$50				12/06/11	01/05/11	01/05/11			02/03/12	$50	$0	
1		1	10/13/13							1	OA 2011-68				$50		$50	12/06/11	01/05/11	01/05/11			12/19/11	$50		$0
1	1		09/30/12			1					OT 2010-526	$500		$500				12/12/11	01/11/12	01/11/12			01/05/12	$500	$0	
1	1		10/31/12			1					AL 2011-154	$250		$250				12/20/11	01/19/12	01/19/12					$250	
1		1	11/30/13			1					OA 2010-575				$500		$500	12/21/11	01/20/12	01/20/12			01/19/12	$500		$0
1	1		04/30/12				1				OT 2010-652	$500		$500				12/28/11	01/27/12	01/27/12					$500	
30	21	9		1	0	5	1	1	3	19		$2,550	$300	$2,250	$2,900	$250	$2,650				4	0		$3,950	$800	$150

Violation Key:

Applicant
FDC - Failure to Disclose Criminal Convictions
UPC - Unprofessional Conduct-Misrepresent credentials

Licensee
UPC - Unprofessional Conduct
CC - Criminal Convictions
ULP - Unlicensed Practice
PDU - Continuing Education
AD - Failure to Notify of Address Change

Non-Licensed
ULP- Unlicensed Practice

**Citation payments received in this quarter for citations issued in a previous quarter are not reflected in this table.

***Appeals requested in this quarter. Conferences and hearings may have been/will be held within a different quarter

BOT ENFORCEMENT STATISTICAL REPORT
October 1, 2011 – December 31, 2011

Total Complaints-Received: **116**

Complaints-Closed: **126**

Total Complaints-Pending: **131** (Oldest: 5/25/10)

Record of Arrests and Prosecutions [RAP] Received: **9**

DOI Investigations Initiated: **15**

DOI Investigation Reports Received: **9**

Formal DOI Investigations Pending: **22** (Oldest: 2/8/11)

Subsequent Arrest Reports Received: **4**

Applications Denied pursuant to Business and Professions Code 480/485: **0**

Cases Pending with the Attorney General (AG): **16**

Transmitted	Complaint No	Type	Current Status
09/16/10	OT 2009-43	Accusation	Prop Decision Non-Adopted 12/1/11; Board to render its own Decision 3/12/12
11/03/10	OT 2009-195	Accusation	Accusation filed 3/24/11; NOD recd 4/12/11; Hearing continued
11/12/10	OT 2009-139	Accusation	Stipulated Settlement adopted; 3 yrs probation effective 3/15/12
01/05/ 11	AR 2010-153	SOI	Hearing held, ALJ Proposed Decision adopted, license denied 1/13/12
01/18/11	D1 2008-27	Pet to Rev Prob	Stipulated Settlement adopted; surrender effective 3/15/12
03/10/11	D1 2007-90	Pet to Rev Prob	PTR filed 10/11/11; NOD recd, DAG to schedule hearing
03/23/11	OA 2010-177	Accusation	Accusation filed 6/28/11; NOD recd; Hearing scheduled 3/19/12
04/07/11	D1 2008-455	Pet to Rev Prob	Stipulated Settlement adopted; surrender effective 3/15/12
04/14/11	D1 2009-15	Pet to Rev Prob	PTR filed 8/30/11; NOD recd; Hearing scheduled 3/29/12
04/26/11	OA 2010-315	Accusation	Accusation filed 7/11/11; NOD recd; Hearing scheduled 3/19/12
05/10/11	OT 2010-182	Accusation	Stipulated Settlement adopted; 2 yrs probation effective 3/16/12
07/13/11	AL 2010-527	SOI	Statement of Issues filed 9/21/11; Hearing scheduled 5/31/12
08/22/11	OT 2007-220	Accusation	Default Decision adopted; Revocation effective 1/5/12
10/12/11	OT 2009-246	Accusation	Accusation to be filed
11/08/11	OT 2011-170	ISO	Interim Suspension Order Issued 2/16/2012
11/10/11	AL 2010-605	SOI	SOI filed 2/10/12

Statement of Issues filed: **0**
Petition to Revoke Probation filed: **1**

Accusations filed: **1**
Accusation & Petition to Revoke Probation filed: **0**

Report prepared 3/7/2012

Final Decisions: **6**

October 25, 2011	Terry McGowin	2 Years Probation
November 11, 2011	Sandra Ingram-Watson	3 Years Probation
November 11, 2011	Mary-Kaye Quinne	3 Years Probation
November 11, 2011	Steven Salinas	3 Years Probation
November 11, 2011	Gurpreet Sandhu	3 Years Probation
December 15, 2011	Kathleen Posuniak	1 Year Probation

Cease Practice Orders Issued: **2**

September 19, 2011	Anne Hickey
September 28, 2011	Solena Clements
December 13, 2011	Steven Salinas

Cease Practice Orders Lifted: **0**

December 19, 2011	Anne Hickey

Practitioners Currently on Probation

NAME	LICENSE #			LENGTH OF PROBATION	EFFECTIVE DATE
Adams, Monica	OT 10760	Charging Document	Probation Order	3 Years	08/11/09
Belasco, Jonathan	OTA 1063	Charging Document	Probation Order	3 Years	06/16/10
Champlin, Susan	OT 10842	Charging Document	Probation Order	3 Years	09/15/09
Clements, Solena	OTA 1504	Charging Document	Probation Order	3 Years	09/01/10
Crane, Jody	OT 10136	Charging Document	Probation Order	4 Years	07/23/08
Fujikawa, Kris	OT 5673	Charging Document	Probation Order	5 Years	05/13/07
Galaviz, Jaime H.	OTA 1799	Charging Document	Probation Order	3 Years	12/09/10
Harris, Donald	OTA 1772	Charging Document Charging Document	Probation Order Probation Order	4 Years 4 Years	04/23/10 10/23/15
Hickey, Anne	OT 7080	Charging Document	Probation Order	3 Years	08/19/10
Ingram-Watson, Sandra	OT 12312	Charging Document	Probation Order	3 Years	11/07/11
Jayne, Benjamin	OT 10605	Charging Document	Probation Order	3 Years	04/10/09
Kemp, Shawna M.	OT 2364	Charging Document	Probation Order	18 mos	07/26/11
Lucia, Rinea	OT 6433	Charging Document	Probation Order	3 Years	08/20/09
McGowin, Terry D.	OTA 757	Charging Document	Probation Order	2 Years	10/25/11
Ngo, Lisa B.	OT 11572	Charging Document	Probation Order	3 Years	11/19/10
Novegrod, Shana E.	OT 4624	Charging Document	Probation Order	3 years	07/21/11
Pitts, Andre	OTA 1829	Charging Document	Probation Order	5 Years	09/23/08
Posuniak, Kathleen	OT 12395	Charging Document	Probation Order	1 Year	12/15/11
Quinne, Mary-Kaye	OTA 555	Charging Document	Probation Order	3 Years	11/11/11
Rogers, Amy	OT 10926	Charging Document	Probation Order	3 Years	10/29/09
Salinas, Steven	OT 8131	Charging Document Suspension Order	Probation Order	3 Years n/a	11/11/11 02/16/12
Sandhu, Gurpreet	OT 7284	Charging Document	Probation Order	3 Years	11/11/11
Schmidt, Rebecca	OT 8291	Charging Document	Probation Order	3 Years	11/27/09
Searcy, Mary	OT 6209	Charging Document	Probation Order	2 Years	09/01/10
Severin, Sandra	OTA 1975	Charging Document	Probation Order	3 Years	12/22/09