Consideration and possible action of legislative proposal amending BPC Section 2570.2.

The legislative proposal is attached for review.

Proposed Amendment to Business & Professions Code 2570.2(k)

"~~Practice of~~ ~~o~~Occupational therapy" means the therapeutic use of purposeful and meaningful goal-directed activities (occupations) which engage the individual's body and mind in meaningful, organized, and self-directed actions that maximize independence, prevent or minimize disability, and promote or maintain health, well-being, and quality of life. Occupational therapy services encompass research, occupational therapy assessment, treatment, education of, and consultation with~~, individuals who have been referred for occupational therapy services subsequent to diagnosis of disease or disorder (or who are receiving occupational therapy services as part of an Individualized Education Plan (IEP) pursuant to the federal Individuals with Disabilities Education Act (IDEA)).~~ individuals, groups, programs, organizations, or communities.

(1) Occupational therapy assessment identifies performance abilities and limitations that are necessary for self-maintenance, learning, work, and other similar meaningful activities. Occupational therapy treatment is focused on developing, improving, or restoring functional daily living skills, compensating for and preventing dysfunction, or minimizing disability. Occupational therapy techniques that are used for treatment involve teaching activities of daily living (excluding speech-language skills); designing or fabricating selective temporary orthotic devices, and applying or training in the use of assistive technology or orthotic and prosthetic devices (excluding gait training). Occupational therapy consultation provides expert advice to enhance function and quality of life. Consultation or treatment may involve modification of tasks or environments to allow an individual to achieve maximum independence. Services are provided individually, in groups, or through social groups.

(2) The licensed occupational therapist or occupational therapy assistant may assume a variety of roles, including but not limited to, practitioner, supervisor of professional students and volunteers, researcher, scholar, consultant, administrator, faculty, clinical instructor, and educator of consumers, peers, and family.

Consideration and possible action of legislative proposal amending BPC Section 2570.18.

The legislative proposal is attached for review.

Proposed Amendment to Business & Professions Code Section 2570.18.

(a) On and after January 1, 2003, a person shall not represent to the public by title, education, or background, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice occupational therapy in this state, unless authorized to practice occupational therapy under this chapter.

(b) Unless licensed to practice as an occupational therapist under this chapter, a person may not use the professional abbreviations "O.T.," "O.T.R.," or "O.T.R./L.," or "Occupational Therapist," or "Occupational Therapist Registered," or any other words, letters, or symbols with the intent to represent that the person practices or is authorized to practice occupational therapy.

(c) A licensed occupational therapist who has received a doctoral degree in occupational therapy (OTD) or, after adoption of the regulations described in subdivision (d), a doctoral degree in a related area of practice or study may do the following:

(1) In a written communication, use the initials DPT, DPH, PhD, or EdD, as applicable, following the licensee's name.

(2) In a written communication, use the title "Doctor" or the abbreviation "Dr." preceding the licensee's name, if the licensee's name is immediately followed by an unabbreviated specification of the applicable doctoral degree held by the licensee.

(3) In a spoken communication while engaged in the practice of occupational therapy, use the title "doctor" preceding the person's name, if the speaker specifies that he or she is an occupational therapist.

(d) A doctoral degree described in subdivision (c) shall be granted by an institution accredited by the Western Association of Schools and Colleges, the Accreditation Council on Occupational Therapy Education, or by an accrediting agency recognized by the National Commission on Accrediting or the United States Department of Education that the board determines is equivalent to the Western Association of Schools and Colleges.

(d) The board shall define, by regulation, the doctoral degrees that are in a related area of practice or study for purposes of subdivision (c).

~~(c)~~(e) Unless certified to assist in the practice of occupational therapy as an occupational therapy assistant under this chapter, a person may not use the professional abbreviations "O.T.A.," "C.O.T.A.," "C.O.T.A./C." or "Occupational Therapy Assistant," or "Certified Occupational Therapy Assistant," or any other words, letters, or symbols, with the intent to represent that the person assists in, or is authorized to assist in, the practice of occupational therapy as an occupational therapy assistant.

~~(d)~~ (f) The unauthorized practice or representation as an occupational therapist or as an occupational therapy assistant constitutes an unfair business practice under Section 17200 and false and misleading advertising under Section 17500.

No

Materials

for

Item 21

ENFORCEMENT DATA AND REPORTS.

The enforcement data for the period April 1, 2015 – June 30, 2015 is attached for review.

BOT ENFORCEMENT STATISTICAL REPORT
April 1, 2015 – June 30, 2015

Total Complaints-Received: **173**

Record of Arrests and Prosecutions [RAP] Received: **10**

Complaints-Closed: **180**

Total Complaints-Pending: **326** (Oldest: 1/24/13)

DOI Investigations Initiated: **6**

Subsequent Arrest Reports Received: **4**

DOI Investigation Reports Received: **16**

Formal DOI Investigations Pending: **31** (Oldest: 10/07/13)

Applications Denied pursuant to Business and Professions Code 480/485: **2**

Cases Pending with the Attorney General (AG): **9**

Transmitted	Complaint No	Type	Current Status
11/10/14	OA 2014-250	Accusation	Accusation filed 3/26/2015; NOD recd; Hearing scheduled 12/28-29/15
11/26/14	AR 2013-481	SOI	SOI filed 5/12/2015; Stipulated Settlement to Board for vote 8/26/15
01/08/15	D1 2012-100	Pet to Rev Prob	PTR filed 06/09/15; Stipulated Surrender adopted by EO, effective 08/03/15
01/27/15	AL 2014-161	SOI	SOI 4/7/2015; *Board* heard case 06/03/15, Decision to Grant license w/3 yrs prob eff 09/18/15
01/29/15	AR 2013-709	SOI	SOI filed 5/1/2015; Hearing 07/07/15; Board to vote on Proposed Decision at mtg 09/18/15
02/24/15	OT 2013-576	Accusation	Accusation filed 06/24/15; NOD recd 07/02/15; Hearing TBS
03/16/15	OT 2012-448	Accusation	Accusation to be drafted
04/01/15	OT 2012-545	Accusation	Accusation filed 08/28/15
04/20/15	PT 2014-517	Reinstatement	*Board* heard case 06/03/15; Decision received 06/26/15; Board to discuss Decision at mtg 09/18/15

Statement of Issues filed: **3**
Petition to Revoke Probation filed: **1**
ISO Issued: **0**

Accusations filed: **1**
Accusation & Petition to Revoke Probation filed: **0**
PC23 Issued: **0**

Final Decisions: **2**

Effective	Name	Type	Complaint Received
04/01/15	Robinson, Lauretta	Voluntary Surrender	02/15/2011
06/18/15	Gaeta, Adriana	Probation (3 years)	06/07/2013

Cease Practice Orders Issued: **0**

Cease Practice Orders Lifted: **0**

Report updated 09/09/2015

Citations Issued
4/1/2015 - 6/30/2015

#	LICENSE CLASS			VIOLATION						CIT. #	FINE (OT)	OT Fine Modified	GRAND TOTAL FINE DUE (OT)	FINE (OTA)	OTA Fine Modified	GRAND TOTAL FINE DUE (OTA)	DATE ISSUED	Appeal Rcvd		PAYMENT				
	OT	OTA	No Lic	FDC	UPC	CC	ULP	PDU	AD									ICR	ADMIN	Pymnt Date	Pd in Full	Pymnt Amnt	Bal (OT)	Bal (OTA)
1	1								1	OT2014-332	$50		$50			$0	04/30/15			05/11/15	1	$50	$0	-$50
1	1								1	OT 2014 301							04/30/15	1		WITHDRAWN				
1	1								1	OT2014-344	$50		$50				04/30/15			05/18/15	1	$50	$0	
1	1								1	OT2014-309	$50		$50				04/30/15			05/18/15	1	$50	$0	
1	1								1	OT2014-311	$100		$100				04/30/15			08/17/15	1	$100	$0	
1	1								1	OT 2014-323	$50		$50				04/30/15			06/01/15	1	$50	$0	
1	1								1	OT 2014-332	$50		$50				04/30/15							
1	1								1	OT 2014-343							04/30/15	1		WITHDRAWN				
1	1								1	OT2014-298	$50		$50			$0	05/08/15			05/18/15	1	$50	$0	
1	1								1	OT 2014-297	$50		$50			$0	05/08/15			06/29/15	1	$50	$0	$0
1	1								1	OT 2014-293	$50		$50			$0	05/08/15			05/26/15	1	$50	$0	$0
1	1								1	OT 2014-341	$50		$50			$0	05/08/15						$50	$0
1	1								1	OT 2014-342	$50		$50			$0	05/08/15						$50	$0
1		1							1	OA 2014-346	$50		$50	$50		$50	05/08/15			05/29/15	1	$50	$50	$0
1	1								1	OT 2014-348	$50		$50			$0	05/08/15						$50	$0
1		1							1	OA 2014-350	$50		$50	$50		$50	05/08/15			06/22/15	1	$50	$50	$0
1	1								1	OT 2014-365			$0			$0	05/08/15	1		WITHDRAWN				$0
1	1						1			OT 2014-239	$300		$300			$0	05/12/15			05/28/15	1	$300	$0	
1	1						1			OT 2014-282	$500		$500			$0	05/12/15						$500	$0
1	1								1	OT 2014-369	$50		$50			$0	05/19/15			06/05/15	1	$50	$0	$0
1	1								1	OT 2014-371	$50		$50			$0	05/19/15			05/28/15	1	$50	$0	
1		1							1	OA 2014-372						$0	05/19/15			WITHDRAWN				$0
1	1								1	OT 2014-373	$50		$50			$0	05/19/15						$50	$0
1	1								1	OT 2014-378	$50		$50			$0	05/19/15						$50	$0
1	1								1	OT 2014-383	$50		$50			$0	05/19/15			07/06/15	1	$50	$0	$0
1	1								1	OT 2014-451	$50		$50			$0	05/19/15						$50	$0
1	1								1	OT 2014-445	$50		$50			$0	05/19/15						$50	$0
1	1								1	OT 2014-449	$50		$50			$0	05/19/15			05/26/15	1	$50	$0	$0
1	1								1	OT 2014-453	$50		$50			$0	05/19/15			06/26/15	1	$50	$0	$0
1		1							1	OA 2014-479			$0	$50		$50	05/19/15			06/08/15	1	$50	$0	$0
1	1								1	OT 2014-502	$50		$50			$0	05/19/15			06/15/15	1	$50	$0	$0
1	1								1	OT 2014-503	$50		$50			$0	05/19/15			WITHDRAWN			$50	$0
1	1						1			OT 2014-283	$200		$200			$0	05/19/15			06/03/15	1	$200	$0	$0
1		1		1						OA 2014-234				$250		$250	05/20/15							$250
1	1								1	OT 2014-285	$50		$50				05/26/15			07/13/15	1	$50	$0	$0
1	1								1	OT 2014-376	$50		$50				05/26/15						$50	$0
1	1								1	OT 2014-382	$50		$50			$0	05/26/15			06/15/15	1	$50	$0	$0
1		1							1	OA2014-446				$50		$50	05/26/15			06/22/15	1	$50		$0
1	1								1	OT 2014-447	$50		$50			$0	05/26/15			06/11/15	1	$50	$0	$0

Citations Issued
4/1/2015 - 6/30/2015

#	LICENSE CLASS			VIOLATION						CIT. #	FINE (OT)	OT Fine Modified	GRAND TOTAL FINE DUE (OT)	FINE (OTA)	OTA Fine Modified	GRAND TOTAL FINE DUE (OTA)	DATE ISSUED	Appeal Rcvd		PAYMENT				
	OT	OTA	No Lic	FDC	UPC	CC	ULP	PDU	AD									ICR	ADMIN	Pymnt Date	Pd in Full	Pymnt Amnt	Bal (OT)	Bal (OTA)
1	1								1	OT 2014-450	$50		$50			$0	05/26/15			06/25/15	1	$50	$0	$0
1	1								1	OT 2014-509	$50		$50			$0	01/19/44			06/05/15	1	$50	$0	$0
1	1								1	OT 2014-241	$300		$300			$0	05/27/15						$300	$0
1		1							1	OA 2014-290			$0	$250		$250	05/27/15						$0	$250
1	1								1	OT 2014-273	$250		$250			$0	05/27/15						$250	$0
1	1								1	OT 2014-308	$250	$250	$0			$0	05/27/15			WITHDRAWN			$0	$0
1	1								1	OT 2014-315	$250		$250			$0	05/27/15						$250	$0
1		1							1	OA 2014-284			$0	$50		$50	05/29/15						$0	$50
1		1							1	OA 2014-397			$0	$50		$50	06/01/15						$0	$50
1	1								1	OT 2014-398	$50		$50			$0	06/01/15			06/19/15	1	$50	$0	$0
1	1								1	OT 2014-399	$50		$50			$0	06/01/15			06/12/15	1	$50	$0	$0
1	1								1	OT 2014-400	$50		$50			$0	06/01/15						$50	$0
1		1						1		OA 2013-427			$0	$250		$250	06/23/15						$0	$250
1	1							1		OT 2014-224	$250		$250			$0	06/23/15			06/29/15	1	$250	$0	$0
1	1							1		OT 2014-158	$250		$250			$0	06/24/15						$250	$0
1	1							1		OT 2014-251	$250		$250			$0				08/03/15	1	$250	$0	$0
1	1							1		OT 2014-272	$250		$250			$0				07/03/15	1	$250	$0	$0
1	1							1		OT 2014-327	$250		$250			$0	06/24/15			07/02/15	1	$250	$0	$0
1		1						1		OA 2014-395			$0	$250		$250							$0	$250
1	1							1		OT 2014-498	$250		$250			$0							$250	$0
1	1							1		OT 2013-662	$300		$300			$0							$300	$0
1		1						1		OA 2013-725			$0	$300		$300							$0	$300
1	1								1	OT 2014-536	$50		$50			$0	06/25/15			07/20/15	1	$50	$0	$0
1	1								1	OT 2014-513	$50		$50			$0	06/25/15			07/27/15	1	$50	$0	$0
1	1								1	OT 2014-442	$50		$50			$0	06/25/15			07/06/15	1	$50	$0	$0
1	1								1	OT 2014-401	$50		$50			$0	06/25/15						$50	$0
1	1								1	OT 2014-387	$50		$50			$0	06/25/15			0706/15	1	$50	$0	$0
1		1							1	OA 2014-421			$0	$50		$50	06/25/15			07/21/15	1	$50	$0	$0
1		1							1	OA 2014-559			$0	$50		$50	06/25/15						$0	$50
1	1								1	OT 2014-402	$50		$50			$0	06/25/15						$50	$0
1		1							1	OT 2014 -514	$50		$50			$0	06/25/15						$50	$0
TOTALS																								
70	55	15	0	1	0	0	3	10	56		$5,950	$250	$5,700	$1,700	$0	$1,700		3	0		36	$3,050	$2,850	$1,400

Disciplinary Action

Practitioners Currently on Probation or Other Court Orders

NAME	LICENSE #			LENGTH OF PROBATION	EFFECTIVE DATE
Allen, Cornell Jr.	OT 9187	PC 23 Court Order		n/a	07/10/13
Brown, Charles Stanley	OT 5525	PC 23 Court Order		n/a	08/12/15
Darrow, Colleen	OT 11844	Charging Document	Probation Order	4 Years	06/26/14
DeMena, Alan	OTA 466	Charging Document	Probation Order	3 Years	06/27/14
Gaeta, Adriana	OTA 1404	Charging Document	Disciplinary Order	3 years	06/18/15
Harris, Donald	OTA 1772	Charging Document Charging Document	Probation Order Probation Order	4 Years 4 Years	04/23/10 11/11/11 *
Hanvey, Megan P.	OT 2222	Charging Document	Probation Order	3 Years	08/30/13
Kelley, Anjuli	OT 11168	Petition for Reinstatement	Probation Order	3 Years	01/16/14
Martinez, Sharon	OTA 3067	Charging Document	Probation Order	3 Years	01/13/15
Meyer, Lisa M	OT 14107	Charging Document	Probation Order	3 Years	02/13/14
Mustafa, Feras A.R.	OT 13960	Charging Document	Probation Order	3 Years	11/12/13
Necesito, Dennis B.	OT 7360	Charging Document	Probation Order	4 Years	08/30/13
Neff, Heather L.	OT 7629	Charging Document	Probation Order	3 Years	07/11/14
Ngo, Nicole U.	OT 14773	Charging Document	Probation Order	3 Years	10/27/14
Novegrod, Shana E.	OT 4624	Charging Document	Probation Order	3 years	07/21/11 *
Perez, Thomas J.	OTA 2470	Charging Document	Probation Order	5 years	01/09/13
Retuya, Tristan	OT 12378	Charging Document	Probation Order	3 years	12/04/13
Schmidt, Rebecca	OT 8291	Charging Document	Probation Order	3 Years	11/27/09 *
Sweeney, Lynette	OT 10550	Charging Document	Probation Order	2 Years	09/27/13
Theodore, Dean	OTA 1205	PC 23 Court Order			03/27/14

* Probation "tolled" or extended beyond original expiration date.

EXECUTIVE OFFICER'S REPORT.

The following are attached for review:

- Operational Report
- Budget Update
- BrEZe Update
- Other informational items re: telehealth and athletic trainers

Date: September 10, 2015

To: CBOT Members

From: Heather Martin, Executive Officer

Subject: Executive Officer Report – Board Meeting September 17-18, 2015

Items covered:

a) Operational Report
b) Budget Update
c) BreEZe Update
d) Strategic plan update
e) Other Informational Items

Operational Report

The Board currently has two vacancies and plans to hold interviews in late September or early October.

Given the fact that several staff are intermittently dedicated to BrEZe and the two current vacancies, there are backlogs in the areas of enforcement, advanced practice applications, website updates and administrative reports.

Budget Update

Attached is a Fiscal Month (FM) 13 report, which shows annual expenditures and revenue collected. Recently, Budget Change Proposals were submitted to augment current staffing levels along with workload and revenue projections for FY 2015-16 and 2016-17 were submitted.

BreEZe Project:

The new BrEZe system will provide on-line functionality (such as applying for or renewing a license, submitting an advanced practice application) and back-office functionality (such as processing applications, auditing PDU compliance, and tracking complaints and investigations).

Board staff continues to support the BrEZe project, including user acceptance testing (UAT) which will be held during the period 9/23-11/19 (two staff will be at DCA the entire 8-wekk period; one other staff member will also help the first two weeks and week six and eight), three staff will do data validation during the periods 8/31-9/9, 10/14-23, and 11/13-19.

Organizational change management activities will continue through the end of November or early December. These activities include business process modeling, identifying gaps in our current processes and the functionality/system capabilities in BrEZe, developing suggested solutions to identified gaps, staff training in the use of and acceptance of the new system, all with a goal of a high-level of readiness for the transition from the current systems to BreEZe.

Other Informational Items

Performance Measures

Performance measures (PMs) for the periods January 1 – March 31, 2015 and April 1 – June 30, 2014 were not available as of this report. (Annual PMs for the period July 1, 2014 – June 30, 2015 will also be provided once the last two quarters are available).

Once available, PMs can be found here:
http://www.dca.ca.gov/about_dca/cpei/quarterly_reports.shtml

Telehealth

The Board asked that information be provided regarding what other state boards are doing regarding telehealth. Included in materials is the following:

- Proposed amended telehealth language (to be noticed in September and considered by Board at November meeting
- An article entitled "An Analysis of State Telehealth Laws and Regulations for Occupational Therapy and Physical Therapy" by the staff at Center for Connected Health Policy
- Current telehealth language from Alaska, Colorado, Illinois, Kentucky, and Oregon.

Athletic Trainers

The Board asked that information be provided regarding the status of athletic trainers. Included in the materials is the following:

- AB 161 (Chau and several co-authors) introduced January 21, 2015 and amended August 31, 2015.
- Senate B&P analysis for hearing held June 8, 2015.
- Senate Rules Committee analysis September 1, 2015.

DEPARTMENT OF CONSUMER AFFAIRS

CA BD OF OCCUPATIONAL THERAPY

BUDGET REPORT

AS OF 6/30/2015

FM 13

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	316,329	0	292,408	0	292,408	23,921	
033 01	EXPERT EXAMINER (9	20,000	0	0	0	0	20,000	
033 04	TEMP HELP (907)	0	979	11,476	0	11,476	(11,476)	
063 00	STATUTORY-EXEMPT	84,180	0	87,511	0	87,511	(3,331)	
063 01	BD/COMMSN (901,920	4,000	0	1,400	0	1,400	2,600	
083 00	OVERTIME	0	0	1,181	0	1,181	(1,181)	
TOTAL SALARIES AND WAGES		**424,509**	**979**	**393,977**	**0**	**393,977**	**30,532**	**7.19%**
STAFF BENEFITS								
101 00	STAFF BENEFITS	0	14	14	0	14	(14)	
103 00	OASDI	31,864	0	22,521	0	22,521	9,343	
104 00	DENTAL INSURANCE	1,823	0	2,434	0	2,434	(611)	
105 00	HEALTH/WELFARE INS	86,842	0	58,078	0	58,078	28,764	
106 01	RETIREMENT	97,673	0	91,610	0	91,610	6,063	
125 00	WORKERS' COMPENSAT	10,225	0	0	0	0	10,225	
125 15	SCIF ALLOCATION CO	0	0	4,426	0	4,426	(4,426)	
132 00	NONINDUST DISABLTY	2,000	0	0	0	0	2,000	
133 00	UNEMPLOYMENT INSUR	3,000	0	0	0	0	3,000	
134 00	OTHER-STAFF BENEFI	100	0	21,677	0	21,677	(21,577)	
134 01	TRANSIT DISCOUNT	0	0	103	0	103	(103)	
135 00	LIFE INSURANCE	200	0	83	0	83	117	
136 00	VISION CARE	744	0	691	0	691	53	
137 00	MEDICARE TAXATION	5,482	0	5,439	0	5,439	43	
TOTAL STAFF BENEFITS		**239,953**	**14**	**207,076**	**0**	**207,076**	**32,877**	**13.70%**
TOTAL PERSONAL SERVICES		**664,462**	**993**	**601,052**	**0**	**601,052**	**63,410**	**9.54%**
OPERATING EXPENSES & EQUIPMENT								
FINGERPRINTS								
213 04	FINGERPRINT REPORT	22,000	1,764	18,348	0	18,348	3,652	
TOTAL FINGERPRINTS		**22,000**	**1,764**	**18,348**	**0**	**18,348**	**3,652**	**16.60%**
GENERAL EXPENSE								
201 00	GENERAL EXPENSE	47,297	0	0	0	0	47,297	
206 00	MISC OFFICE SUPPLI	0	466	4,149	0	4,149	(4,149)	
207 00	FREIGHT & DRAYAGE	0	0	36	0	36	(36)	

CA BD OF OCCUPATIONAL THERAPY

	DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
213 02	ADMIN OVERHEAD-OTH	0	7	1,825	0	1,825	(1,825)	
217 00	MTG/CONF/EXHIBIT/S	0	0	511	0	511	(511)	
223 00	LIBRARY PURCH/SUBS	0	0	268	0	268	(268)	
TOTAL GENERAL EXPENSE		**47,297**	**473**	**6,789**	**0**	**6,789**	**40,508**	**85.65%**
PRINTING								
241 00	PRINTING	6,245	0	0	0	0	6,245	
242 00	PAMPHLT/LEAFLT/BRO	0	0	1,115	0	1,115	(1,115)	
242 03	COPY COSTS ALLO	0	0	250	0	250	(250)	
244 00	OFFICE COPIER EXP	0	0	880	500	1,380	(1,380)	
TOTAL PRINTING		**6,245**	**0**	**2,245**	**500**	**2,745**	**3,500**	**56.05%**
COMMUNICATIONS								
251 00	COMMUNICATIONS	5,449	0	0	0	0	5,449	
252 00	CELL PHONES,PDA,PA	0	0	163	0	163	(163)	
253 00	CENT COMM (CALNET,	0	0	223	0	223	(223)	
257 01	TELEPHONE EXCHANGE	0	0	2,081	0	2,081	(2,081)	
TOTAL COMMUNICATIONS		**5,449**	**0**	**2,466**	**0**	**2,466**	**2,983**	**54.74%**
POSTAGE								
261 00	POSTAGE	11,655	0	0	0	0	11,655	
262 00	STAMPS, STAMP ENVE	0	0	2,124	0	2,124	(2,124)	
263 05	DCA POSTAGE ALLO	0	0	9,301	0	9,301	(9,301)	
263 06	EDD POSTAGE ALLO	0	0	8,269	0	8,269	(8,269)	
TOTAL POSTAGE		**11,655**	**0**	**19,694**	**0**	**19,694**	**(8,039)**	**-68.97%**
TRAVEL: IN-STATE								
291 00	TRAVEL: IN-STATE	16,146	0	0	0	0	16,146	
292 00	PER DIEM-I/S	0	464	3,102	0	3,102	(3,102)	
294 00	COMMERCIAL AIR-I/S	0	0	7,391	0	7,391	(7,391)	
296 00	PRIVATE CAR-I/S	0	0	1,282	0	1,282	(1,282)	
297 00	RENTAL CAR-I/S	0	0	1,096	0	1,096	(1,096)	
301 00	TAXI & SHUTTLE SER	0	0	100	0	100	(100)	
302 00	RAIL AND BUS-I/S	0	0	29	0	29	(29)	
305 00	MGMT/TRANS FEE-I/S	0	0	165	0	165	(165)	
305 01	CALATERS SERVICE F	0	0	108	0	108	(108)	
TOTAL TRAVEL: IN-STATE		**16,146**	**464**	**13,274**	**0**	**13,274**	**2,872**	**17.79%**
TRAVEL: OUT-OF-STATE								
314 00	COMMERCIAL AIR-O/S	0	0	340	0	340	(340)	

CA BD OF OCCUPATIONAL THERAPY

	DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
TOTAL TRAVEL: OUT-OF-STATE		**0**	**0**	**340**	**0**	**340**	**(340)**	**0.00%**
TRAINING								
331 00	TRAINING	1,499	0	0	0	0	1,499	
TOTAL TRAINING		**1,499**	**0**	**0**	**0**	**0**	**1,499**	**100.00%**
FACILITIES OPERATIONS								
341 00	FACILITIES OPERATI	44,894	0	0	0	0	44,894	
343 00	RENT-BLDG/GRND(NON	0	0	79,098	0	79,098	(79,098)	
347 00	FACILITY PLNG-DGS	0	0	1,637	0	1,637	(1,637)	
TOTAL FACILITIES OPERATIONS		**44,894**	**0**	**80,735**	**0**	**80,735**	**(35,841)**	**-79.83%**
C/P SVS - EXTERNAL								
404 05	C&P EXT ADMIN CR C	0	0	0	1,000	1,000	(1,000)	
409 00	INFO TECHNOLOGY-EX	0	(297)	0	0	0	0	
TOTAL C/P SVS - EXTERNAL		**0**	**(297)**	**0**	**1,000**	**1,000**	**(1,000)**	**0.00%**
DEPARTMENTAL SERVICES								
424 03	OIS PRO RATA	154,061	(4,295)	150,120	0	150,120	3,941	
427 00	INDIRECT DISTRB CO	87,798	0	88,116	0	88,116	(318)	
427 01	INTERAGENCY SERVS	105	0	0	0	0	105	
427 30	DOI - ISU PRO RATA	2,745	(287)	1,807	0	1,807	938	
427 34	PUBLIC AFFAIRS PRO	2,685	0	2,098	0	2,098	587	
427 35	PCSD PRO RATA	3,796	(126)	3,990	0	3,990	(194)	
TOTAL DEPARTMENTAL SERVICES		**251,190**	**(4,708)**	**246,131**	**0**	**246,131**	**5,059**	**2.01%**
CONSOLIDATED DATA CENTERS								
428 00	CONSOLIDATED DATA	0	18	229	0	229	(229)	
TOTAL CONSOLIDATED DATA CENTERS		**0**	**18**	**229**	**0**	**229**	**(229)**	**0.00%**
DATA PROCESSING								
431 00	INFORMATION TECHNO	3,817	0	0	0	0	3,817	
435 00	NOC-SERV-IT (SECUR	0	0	35	0	35	(35)	
436 00	SUPPLIES-IT (PAPER	0	0	479	0	479	(479)	
445 00	SOFTWARE-IT PURCH,	0	0	2,717	0	2,717	(2,717)	
446 00	HARDWARE-IT PURCH,	0	0	82	0	82	(82)	
TOTAL DATA PROCESSING		**3,817**	**0**	**3,313**	**0**	**3,313**	**504**	**13.20%**
CENTRAL ADMINISTRATIVE SERVICES								
438 00	PRO RATA	62,261	0	62,261	0	62,261	0	
TOTAL CENTRAL ADMINISTRATIVE SERVICES		**62,261**	**0**	**62,261**	**0**	**62,261**	**0**	**0.00%**

CA BD OF OCCUPATIONAL THERAPY

	DESCRIPTION	BUDGET	CURR. MONTH	YR-TO-DATE	ENCUMBRANCE	YTD + ENCUMBRANCE	BALANCE	PCNT REMAIN
EXAMINATIONS								
404 03	C/P SVS - EXT SUB	0	500	2,419	6,261	8,680	(8,680)	
TOTAL EXAMINATIONS		0	500	2,419	6,261	8,680	(8,680)	0.00%
ENFORCEMENT								
396 00	ATTORNEY GENL-INTE	133,243	6,323	48,570	0	48,570	84,673	
397 00	OFC ADMIN HEARNG-I	1,000	6,415	14,455	0	14,455	(13,455)	
414 31	EVIDENCE/WITNESS F	0	500	4,259	1,250	5,509	(5,509)	
418 97	COURT REPORTER SER	0	500	809	0	809	(809)	
427 31	DOI - INVESTIGATIO	83,377	(2,243)	81,718	0	81,718	1,659	
TOTAL ENFORCEMENT		217,620	11,495	149,812	1,250	151,061	66,559	30.58%
MINOR EQUIPMENT								
226 00	MINOR EQUIPMENT	5,283	0	0	0	0	5,283	
226 15	MIN EQPMT-GEN-REPL	0	0	545	0	545	(545)	
226 45	MIN EQPMT-DP-REPL	0	0	369	0	369	(369)	
TOTAL MINOR EQUIPMENT		5,283	0	914	0	914	4,369	82.70%
TOTAL OPERATING EXPENSES & EQUIPMEN		695,356	9,709	608,970	9,010	617,980	77,376	11.13%
CA BD OF OCCUPATIONAL THERAPY		1,359,818	10,702	1,210,022	9,010	1,219,033	140,785	10.35%
		1,359,818	10,702	1,210,022	9,010	1,219,033	140,785	10.35%

DEPT OF CONSUMER AFFAIRS - REGULATORY BOARDS
RECEIPTS BY ORGANIZATION AND SOURCE
AS OF 06/30/15

ENY: 14 FFY: 14
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	0.00	18,130.00	3,870.00
001	991937	02	EXTERNAL/PRIVATE/GRANT	0.00	0.00	3,525.00	3,525.00-
*TOTAL SOURCE 991937				22,000.00	0.00	21,655.00	345.00
*TOTAL PROG 67				22,000.00	0.00	21,655.00	345.00
*TOTAL REFERENCE 001				22,000.00	0.00	21,655.00	345.00
67 00 000 000	83017		REVENUE CA BD OF OCCUPATIONAL THERAPY				
980	125600	CU	OTA DUP LIC FEE-$15.00	0.00	0.00	2,220.00	2,220.00-
980	125600	CV	OTA DUP CERT FEES-$15.00	0.00	0.00	450.00	450.00-
980	125600	FT	CITATION/FINE FTB COLLECTION	0.00	0.00	350.36	350.36-
980	125600	00	OTHER REGULATORY FEES	31,000.00	0.00	0.00	31,000.00
980	125600	18	CITATION & FINE FEE COLLECTED-VAR	0.00	0.00	35,883.00	35,883.00-
*TOTAL SOURCE 125600				31,000.00	0.00	38,903.36	7,903.36-
980	125700	OC	OT INITIAL LIC FEE-$VAR	0.00	50,480.00	108,809.00	108,809.00-
980	125700	OD	OTA INITIAL CERT FEE-$VAR	0.00	0.00	34,492.00	34,492.00-
980	125700	OE	OT LIMITED PERMIT-$75.00	0.00	0.00	3,525.00	3,525.00-
980	125700	OJ	OTA LIMITED PERMIT $75.00	0.00	0.00	1,350.00	1,350.00-
980	125700	UE	OT RETIRED STATUS FEE-$25	0.00	0.00	400.00	400.00-
980	125700	UG	OTA RETIRED STATUS FEE-$25	0.00	0.00	25.00	25.00-
980	125700	UM	OT APPLICATION FEE-$50	0.00	0.00	50,219.00	50,219.00-
980	125700	UN	OTA APPLICATION FEE-$50	0.00	0.00	14,750.00	14,750.00-
980	125700	00	OTHER REGULATORY LICENSES AND PER	157,000.00	50,480.00-	0.00	157,000.00
980	125700	90	OVER/SHORT FEES	0.00	0.00	793.00	793.00-
980	125700	91	SUSPENDED REVENUE	0.00	0.00	25.00	25.00-
980	125700	92	PRIOR YEAR REVENUE ADJUSTMENT	0.00	0.00	12.00-	12.00
*TOTAL SOURCE 125700				157,000.00	0.00	214,376.00	57,376.00-
980	125800	BP	OT INACTIVE RENEWAL LIC FEE-$25.0	0.00	0.00	10,175.00	10,175.00-

DEPT OF CONSUMER AFFAIRS - REGULATORY BOARDS
RECEIPTS BY ORGANIZATION AND SOURCE
AS OF 06/30/15

ENY: 14 FFY: 14
SECTION: 11 CA BD OF OCCUPATIONAL THERAPY
SUB-SECTION: 00
UNIT: 00
SUB-UNIT: 00
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INDEX: 1475 CA BD OF OCCUPATIONAL THERAPY

PROGRAM PG EL CMP TSK	PCA	DESCRIPTION				
			PLANNED	ACTUAL RECEIPTS		
REF	SOURCE	ASRC DESCRIPTION	RECEIPTS	CURRENT MONTH	YEAR-TO-DATE	BALANCE
980	125800	BQ OTA INACTIVE RENEWAL CERT FEE-$25	0.00	0.00	1,900.00	1,900.00-
980	125800	C1 AUTOMATED REVENUE REFUND CLAIM	0.00	450.00-	0.00	0.00
980	125800	00 RENEWAL FEES	950,000.00	0.00	0.00	950,000.00
980	125800	2W BIENNIAL RENEWAL-OT $150	0.00	0.00	783,450.50	783,450.50-
980	125800	2X BIENNIAL RENEWAL-OTA $150	0.00	0.00	153,225.00	153,225.00-
980	125800	90 OVER/SHORT FEES	0.00	0.00	5.00	5.00-
*TOTAL SOURCE 125800			950,000.00	450.00-	948,755.50	1,244.50
980	125900	TM DELINQ BIENNIAL-OT-$75	0.00	0.00	11,775.00	11,775.00-
980	125900	TN DELINQ BIENNIAL-OTA $75	0.00	0.00	2,025.00	2,025.00-
980	125900	00 DELINQUENT FEES	15,000.00	0.00	0.00	15,000.00
*TOTAL SOURCE 125900			15,000.00	0.00	13,800.00	1,200.00
980	142500	00 MISCELLANEOUS SERVICES TO THE PUB	8,000.00	0.00	0.00	8,000.00
980	142500	90 MISC. SER TO PUBLIC - GENERAL	0.00	0.00	18,745.00	18,745.00-
*TOTAL SOURCE 142500			8,000.00	0.00	18,745.00	10,745.00-
980	150300	00 INCOME FROM SURPLUS MONEY INVESTM	10,000.00	2,190.11	7,808.37	2,191.63
*TOTAL SOURCE 150300			10,000.00	2,190.11	7,808.37	2,191.63
980	160100	00 ATTORNEY GENERAL PROCEEDS OF ANTI	0.00	0.00	1,050.00	1,050.00-
*TOTAL SOURCE 160100			0.00	0.00	1,050.00	1,050.00-
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	900.00	900.00-
*TOTAL SOURCE 161000			1,000.00	0.00	900.00	100.00

DEPT OF CONSUMER AFFAIRS - REGULATORY BOARDS
RECEIPTS BY ORGANIZATION AND SOURCE
AS OF 06/30/15

ENY: 14 FFY: 14
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	161400	91	DISHONORED CHECK FEE-VAR	0.00	0.00	300.00	300.00-
*TOTAL SOURCE 161400				0.00	0.00	300.00	300.00-
980	164300	00	PENALTY ASSESSMENTS	8,000.00	0.00	0.00	8,000.00
980	164300	99	PENALTY ASSESSMENTS	0.00	0.00	14,496.00	14,496.00-
*TOTAL SOURCE 164300				8,000.00	0.00	14,496.00	6,496.00-
*TOTAL PROG 67				1,180,000.00	1,740.11	1,259,134.23	79,134.23-
*TOTAL REFERENCE 980				1,180,000.00	1,740.11	1,259,134.23	79,134.23-
*TOTAL INDEX 1475				1,202,000.00	1,740.11	1,280,789.23	78,789.23-
*TOTAL SEC 11				1,202,000.00	1,740.11	1,280,789.23	78,789.23-

DEPT OF CONSUMER AFFAIRS - REGULATORY BOARDS
RECEIPTS BY ORGANIZATION AND SOURCE
AS OF 06/30/15

ENY: 14 FFY: 14
SECTION: 11 CA BD OF OCCUPATIONAL THERAPY
SUB-SECTION: 00
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PROGRAM PG EL CMP TSK	PCA	DESCRIPTION					
REF	SOURCE	ASRC	DESCRIPTION	PLANNED RECEIPTS	ACTUAL RECEIPTS CURRENT MONTH	YEAR-TO-DATE	BALANCE
67 00 000 000	73017		REIMB - CA BD OF OCCUPATIONAL THERAPY				
001	991937	01	FINGERPRINT REPORTS	22,000.00	0.00	18,130.00	3,870.00
001	991937	02	EXTERNAL/PRIVATE/GRANT	0.00	0.00	3,525.00	3,525.00-
*TOTAL SOURCE 991937				22,000.00	0.00	21,655.00	345.00
*TOTAL PROG 67				22,000.00	0.00	21,655.00	345.00
*TOTAL REFERENCE 001				22,000.00	0.00	21,655.00	345.00
67 00 000 000	83017		REVENUE CA BD OF OCCUPATIONAL THERAPY				
980	125600	CU	OTA DUP LIC FEE-$15.00 148	0.00	0.00	2,220.00 148	2,220.00-
980	125600	CV	OTA DUP CERT FEES-$15.00 30	0.00	0.00	450.00 30	450.00-
980	125600	FT	CITATION/FINE FTB COLLECTION	0.00	0.00	350.36	350.36-
980	125600	00	OTHER REGULATORY FEES	31,000.00	0.00	0.00	31,000.00
980	125600	18	CITATION & FINE FEE COLLECTED-VAR	0.00	0.00	35,883.00	35,883.00-
*TOTAL SOURCE 125600				31,000.00	0.00	38,903.36	7,903.36-
980	125700	OC	OT INITIAL LIC FEE-$VAR	0.00	0.00	58,329.00 854	58,329.00-
980	125700	OD	OTA INITIAL CERT FEE-$VAR	0.00	0.00	34,492.00 291	34,492.00-
980	125700	OE	OT LIMITED PERMIT-$75.00 47	0.00	0.00	3,525.00 47	3,525.00-
980	125700	OJ	OTA LIMITED PERMIT $75.00 18	0.00	0.00	1,350.00 18	1,350.00-
980	125700	UE	OT RETIRED STATUS FEE-$25 8	0.00	0.00	400.00 8	400.00-
980	125700	UG	OTA RETIRED STATUS FEE-$25 1	0.00	0.00	25.00 1	25.00-
980	125700	UM	OT APPLICATION FEE-$50	0.00	0.00	50,219.00	50,219.00-
980	125700	UN	OTA APPLICATION FEE-$50	0.00	0.00	14,750.00	14,750.00-
980	125700	00	OTHER REGULATORY LICENSES AND PER	157,000.00	0.00	50,480.00	106,520.00
980	125700	90	OVER/SHORT FEES	0.00	0.00	793.00	793.00-
980	125700	91	SUSPENDED REVENUE	0.00	0.00	25.00	25.00-
980	125700	92	PRIOR YEAR REVENUE ADJUSTMENT	0.00	0.00	12.00-	12.00
*TOTAL SOURCE 125700				157,000.00	0.00	214,376.00	57,376.00-
980	125800	BP	OT INACTIVE RENEWAL LIC FEE-$25.0 407	0.00	0.00	10,175.00	10,175.00-

DEPT OF CONSUMER AFFAIRS - REGULATORY BOARDS
RECEIPTS BY ORGANIZATION AND SOURCE
AS OF 06/30/15

ENY: 14 FFY: 14
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	YEAR-TO-DATE		BALANCE
980	125800	BQ	OTA INACTIVE RENEWAL CERT FEE-$25	0.00	0.00	1,900.00	76	1,900.00-
980	125800	C1	AUTOMATED REVENUE REFUND CLAIM	0.00	450.00-	0.00		0.00
980	125800	00	RENEWAL FEES	950,000.00	0.00	0.00		950,000.00
980	125800	2W	BIENNIAL RENEWAL-OT $150	0.00	0.00	783,450.50	5223	783,450.50-
980	125800	2X	BIENNIAL RENEWAL-OTA $150	0.00	0.00	153,225.00	1021	153,225.00-
980	125800	90	OVER/SHORT FEES	0.00	0.00	5.00		5.00-
*TOTAL SOURCE 125800				950,000.00	450.00-	948,755.50		1,244.50
980	125900	TM	DELINQ BIENNIAL-OT-$75	0.00	0.00	11,775.00	157	11,775.00-
980	125900	TN	DELINQ BIENNIAL-OTA $75	0.00	0.00	2,025.00	27	2,025.00-
980	125900	00	DELINQUENT FEES	15,000.00	0.00	0.00		15,000.00
*TOTAL SOURCE 125900				15,000.00	0.00	13,800.00		1,200.00
980	142500	00	MISCELLANEOUS SERVICES TO THE PUB	8,000.00	0.00	0.00		8,000.00
980	142500	90	MISC. SER TO PUBLIC - GENERAL	0.00	0.00	18,745.00	590	18,745.00-
*TOTAL SOURCE 142500				8,000.00	0.00	18,745.00		10,745.00-
980	150300	00	INCOME FROM SURPLUS MONEY INVESTM	10,000.00	2,190.11	7,808.37		2,191.63
*TOTAL SOURCE 150300				10,000.00	2,190.11	7,808.37		2,191.63
980	160100	00	ATTORNEY GENERAL PROCEEDS OF ANTI	0.00	0.00	1,050.00		1,050.00-
*TOTAL SOURCE 160100				0.00	0.00	1,050.00		1,050.00-
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	900.00		900.00-
*TOTAL SOURCE 161000				1,000.00	0.00	900.00		100.00

DEPT OF CONSUMER AFFAIRS - REGULATORY BOARDS
RECEIPTS BY ORGANIZATION AND SOURCE
AS OF 06/30/15

ENY: 14 FFY: 14
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	161400	91	DISHONORED CHECK FEE-VAR	0.00	0.00	300.00	300.00-
*TOTAL SOURCE 161400				0.00	0.00	300.00	300.00-
980	164300	00	PENALTY ASSESSMENTS	8,000.00	0.00	0.00	8,000.00
980	164300	99	PENALTY ASSESSMENTS	0.00	0.00	14,496.00	14,496.00-
*TOTAL SOURCE 164300				8,000.00	0.00	14,496.00	6,496.00-
*TOTAL PROG 67				1,180,000.00	1,740.11	1,259,134.23	79,134.23-
*TOTAL REFERENCE 980				1,180,000.00	1,740.11	1,259,134.23	79,134.23-
*TOTAL INDEX 1475				1,202,000.00	1,740.11	1,280,789.23	78,789.23-
*TOTAL SEC 11				1,202,000.00	1,740.11	1,280,789.23	78,789.23-

California Board of Occupational Therapy
Department of Consumer Affairs

Title 16, Division 39, California Code of Regulations

PROPOSED TEXT

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

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

§ 4172. Standards of Practice for Telehealth.

(a) In order to provide occupational therapy services via telehealth as defined in Section 2290.5 of the Code, an occupational therapist or occupational therapy assistant providing services to a patient or client in this State must have a valid and current license issued by the Board.
(b) An occupational therapist shall ~~obtain informed consent from~~ inform the patient or client ~~prior to delivering~~ about occupational therapy services via telehealth and obtain consent prior to delivering those services, consistent with Section 2290.5 of the Code.
(c) Prior to providing occupational therapy services via telehealth:
(1) an occupational therapist shall determine whether an in-person evaluation is necessary and ensure that a therapist must be available if an onsite visit is required and;
(2) an occupational therapist shall determine whether in-person interventions are necessary. If it is determined that in-person interventions are necessary, an on-site occupational therapist or occupational therapy assistant shall provide the appropriate interventions.
(d) In making the determination whether an in-person evaluation or in-person interventions are necessary, an occupational therapist shall consider: the complexity of the patient's/client's condition; his or her own knowledge, skills, and abilities; the nature and complexity of the intervention; the requirements of the practice setting; and the patient's/client's context and environment.
(e) An occupational therapist or occupational therapy assistant providing occupational therapy services via telehealth must:
(1) Exercise the same standard of care when providing occupational therapy services via telehealth as with any other mode of delivery of occupational therapy services;
(2) Provide services consistent with section 2570.2(k) of the Code; and
(3) Comply with all other provisions of the Occupational Therapy Practice Act and its attending regulations, including the ethical standards of practice set forth in section 4170, as well as any other applicable provisions of law.
(f) Failure to comply with these regulations shall be considered unprofessional conduct as set forth in the Occupational Therapy Practice Act.

Note: Authority Cited: Business and Professions Code section 2570.20. Reference: Business and Professions Code sections 2290.5 and 2570.20.

AN ANALYSIS OF STATE TELEHEALTH LAWS AND REGULATIONS FOR OCCUPATIONAL THERAPY AND PHYSICAL THERAPY

CHRISTINE CALOURO, M.A., MEI WA KWONG, J.D., MARIO GUTIERREZ, MPH
CENTER FOR CONNECTED HEALTH POLICY, SACRAMENTO, CALIFORNIA, USA

ABSTRACT

This study conducted a scan of telehealth occupational therapy and physical therapy state laws and regulations. The laws and regulations were analyzed to determine the potential effect they could have on occupational therapists' and physical therapists' utilization of telehealth. The results indicate that the majority of occupational therapy and physical therapy boards are silent on telehealth. A handful of physical therapy laws and regulations address "consultation by means of telecommunication," but do not provide any guidance for practitioners seeking to provide direct telehealth-delivered services to patients. Of the few states that do provide guidance, policy had the potential to provide clarity or inhibit adoption. The findings suggest that as state boards consider crafting telehealth regulations, they should do so in a manner that facilitates, rather than hampers adoption, while upholding their providers to a high standard of care.

Keywords: Laws and regulations, occupational therapy, physical therapy, policy, telehealth

Telehealth is the use of electronic digital telecommunication modalities to deliver health care services across a distance. Historically regarded as a tool for rural communities that face health care provider shortages, telehealth is an increasingly valuable resource to expand care access in any geographic setting. Similarly, while telehealth has been employed primarily by medical professionals delivering clinical care services (i.e., typically physicians or nurses), a multitude of other health professionals are exploring ways to apply these technological tools to their professions.

Full implementation of the Patient Protection and Affordable Care Act (ACA; Pub. L. No. 111-148) is expected to increase the demand for allied health professionals such as occupational therapists (OTs) and physical therapists (PTs). Telehealth technologies are poised to offer mechanisms to extend practices and provide services to meet these anticipated needs. Telehealth will only grow in its importance to these health care professionals as health systems become more patient-centered, and adopt more team-based approaches to deliver services. Despite the rapid rise in interest in technology-enabled care, state policymakers and regulatory boards have been slow to respond.

In March 2013, the Center for Connected Health Policy (CCHP) released a scan of state reimbursement laws and regulations on telehealth that revealed that state telehealth reimbursement policies differ significantly (CCHP, 2013). These policies have the potential to either threaten or facilitate the expansion of telehealth in any given state.

In an effort to determine how occupational therapy and physical therapy boards are addressing telehealth, the researchers conducted a review of laws and regulations related to these two professions. This paper reports upon the findings of the scan, and analyzes the potential effects of these laws and regulations on telehealth utilization by OTs and PTs. It also suggests that as telehealth becomes more critical to meeting health-related needs of those newly insured as a result of the ACA, regulatory boards should begin to address telehealth provision in a way that fosters appropriate adoption while upholding providers to the same standard of care as would be required in an equivalent in-person encounter.

METHODOLOGY

Each state's occupational therapy and physical therapy licensing board websites were reviewed for applicable laws and regulations during the month of February 2014. Each of the Board's cited laws and regulations were accessed on the LexisNexis search engine to ensure that the material was current. Additionally, each state's relevant Administrative Code sections and statutes were searched using the following terms: telecommunication, telehealth, telepractice, tele-, telemedicine, telerehabilitation, teletherapy, video and electronic. Laws and regulations containing these search terms were examined for relevance, and any policies outlining

definitions for telehealth-related terms, or rules for OTs or PTs utilizing telehealth to deliver services or provide consultation to another health professional were flagged and noted. Language referencing a therapist's ability to complete continuing education units through video or electronic means was disregarded for this study, as were any policies directly related to supervision of other health professionals via telecommunications systems. States with policies representing the spectrum of current occupational therapy and physical therapy telehealth laws and regulations were identified as case studies for this article, and were used to make general observations about what a law or regulation's impact might be on telehealth utilization in these fields.

FINDINGS

The majority of states lack telehealth laws and regulations (regs) that specifically apply to OTs and/or PTs. States that do have applicable laws or regulations vary widely in their approaches. Table 1 summarizes these initial findings.

Table 1. State Occupational Therapy and Physical Therapy Laws and Regulations

State	OT laws/regs	OT additional requirements to normal law/regs	PT laws/regs	PT additional requirements to normal law/regs
Alabama	--	--	--	--
Alaska (12 AK Admin. Code 54.530 & 54.825, 2008)	✓	* Must be physically present in state when performing telerehabilitation	✓	* Must be physically present in state when performing telerehabilitation
Arizona	--	--	--	--
Arkansas (AR Code § 17-93-102, 2009)	--	--	✓	--
California (16 CA Code of Regs. 4172, 2013)	✓	* Informed consent acquired at distant site * Make a determination about whether in-person evaluation or intervention is necessary based on certain criteria	--	--
Colorado (CO Occupational Therapy Practice Act, 2013)	✓	--	--	--
Connecticut	--	--	--	--
District of Columbia	--	--	--	--
Delaware	--	--	--	--
Florida	--	--	--	--
Georgia	--	--	--	--
Hawaii	--	--	--	--
Idaho	--	--	--	--
Illinois (IL Occupational Therapy Practice Act, 2013)	✓	--	--	--
Indiana	--	--	--	--
Iowa	--	--	--	--
Kansas	--	--	--	--
Kentucky (201 KY Admin Reg. 22:160, 2014 & KY House Bill 177, 2000)	✓	* Must obtain informed consent	✓	* Must obtain informed consent
Louisiana	--	--	--	--
Maine	--	--	--	--
Maryland	--	--	--	--
Massachusetts	--	--	--	--
Michigan	--	--	--	--
Minnesota	--	--	--	--
Mississippi (Code of MS Rules 50-034-001, 2008)	--	--	✓	--
Missouri	--	--	--	--
Montana	--	--	--	--
Nebraska	--	--	--	--
Nevada	--	--	--	--
New Hampshire (NH Physical Therapy Practice Act, 2002)	--	--	✓	--
New Jersey	--	--	--	--
New Mexico	--	--	--	--
New York	--	--	--	--
North Carolina	--	--	--	--
North Dakota (ND Admin. Code 61.5-01-02-01, 2006)	--	--	✓	* Written or verbal consent
Ohio	--	--	--	--
Oklahoma	--	--	--	--
Oregon (OR Revised Statute, § 688.030, 2007)	--	--	✓	--
Pennsylvania (PA Physical Therapy Practice Act, 2008)	--	--	✓	--
Rhode Island	--	--	--	--
South Carolina	--	--	--	--
South Dakota	--	--	--	--
Tennessee	--	--	--	--
Texas	--	--	--	--
Utah (UT Physical Therapy Practice Act, 2009)	--	--	✓	--
Vermont	--	--	--	--
Virginia	--	--	--	--
Washington (WA Admin. Code § 246-915-187, 2011)	--	--	✓	* Must identify in the patient record that the physical therapy occurred via telehealth.
West Virginia	--	--	--	--
Wisconsin	--	--	--	--
Wyoming (Code of WY Rules 006-062-001, 2010)	--	--	✓	* Written or verbal consent

The results indicate that the majority of state occupational therapy and physical therapy regulatory boards are silent on telehealth-related issues. Only a handful of physical therapy laws and regulations address "consultation by means of telecommunication," but do not offer guidance for providing direct telehealth services to patients. Of the few states that provide some guidance, the study found that the policy had the potential to provide clarity for OTs and PTs, or inhibit the adoption of telehealth. These categories are examined below.

Telehealth Parity Laws and Regulation

A small number of state occupational therapy and physical therapy telehealth laws and regulations hold OTs and PTs to the same standard of care whether services are provided in-person or via telehealth, thereby maintaining patient safety.

Illinois achieved this feat of parity by incorporating telehealth into the definition of occupational therapy. The definition simply states, "Occupational therapy may be provided via technology or telecommunication methods, also known as telehealth, however the standard of care shall be the same whether a patient is seen in person, through telehealth, or other method of electronically enabled health care" (Illinois Occupational Therapy Practice Act, 2013). Illinois laws and regulations make no further mention of additional requirements for telehealth use in occupational therapy.

Similarly, Mississippi's physical therapy administrative code includes telehealth under the definition of "practice of physical therapy" stating, "Telehealth is an appropriate model of service delivery when it is provided in a manner consistent with the standards of practice, ethical principles, rules and regulations for Mississippi physical therapy practitioners" (Code of Mississippi Rules 50-034-001, 2008). Similar to Illinois law, Mississippi laws and regulations place no further requirements or restrictions on telehealth use in physical therapy.

These policies demonstrate states' ability to allow their health professionals to utilize telehealth to deliver services, while also ensuring a high standard of care is maintained. Telehealth is treated as a tool for the professional to use, and not distinguished or treated differently from in-person care. Telehealth is neither allowed to meet a lower standard of care, nor required to meet a higher standard than in-person delivered services.

Telehealth Consultation Laws and Regulation

Several states limit telehealth-related regulations to the provision of consultative services. By limiting the use of telehealth to consultations, it would appear that for these states, PTs or OTs may only use telehealth to act as a consultant to another health care professional and not render services directly to a patient. For example, Arkansas's Board of Physical Therapy Practice Act (2009) defines "consultation by means of telecommunication" as the "rendering of a professional opinion, expert opinion or advice by a physical therapist to another physical therapist or health care provider through telecommunication." Other states such as North Dakota, Wyoming, Utah, and Pennsylvania have similar definitions. These states also make a licensure exception for licensed out-of-state physical therapists that provide consultation to a licensed in-state therapist (Pennsylvania Physical Therapy Practice Act b, 2008). Direct patient care is not covered by these regulations, or in any other section, seemingly not allowing a PT or OT to provide direct telehealth-delivered services.

Applicable laws and regulations typically reemphasize that PTs and OTs must comply with existing federal and state laws regarding privacy and security. North Dakota and Wyoming's administrative codes provide further guidance, indicating that PTs should incorporate any records resulting from a consultation by means of telecommunication into the patient's record, and comply with applicable confidentiality laws and regulations (Code of Wyoming Rules 006-062-001, 2010; and North Dakota Administrative Code 61.5-01-02-01, 2006). These requirements merely intend to ensure compliance with laws, regulations and care standards that would exist regardless of whether the PT engaged in a telehealth-delivered consultation. However, the two states also require PTs to obtain a patient's written or verbal consent prior to a telehealth-delivered consultation, adding an extra step PTs must take when utilizing telehealth. Approximately half of states have additional informed consent requirements related to telehealth in the provision of medical services, so it is not surprising to see this policy replicated for PTs and OTs.

Telehealth-Inhibiting Laws and Regulation

A few states have more restrictive telehealth laws or regulations, requiring OTs and/or PTs to comply with standards above and beyond the normal standard of care. This approach often acts as a barrier to telehealth utilization.

ALASKA

Alaska is the only state whose administrative code has specific written telehealth standards of practice for both OTs and PTs. For the most part, the administrative code outlines normal standard of care procedures. For example, it allows OTs and PTs to conduct one-on-one consultations, including initial evaluation via telerehabilitation. The regulation also clarifies that the rules and requirements physical therapists are already expected to adhere to during in-person services also apply for telehealth-delivered services, including maintaining the same ethical conduct and integrity and ensuring client confidentiality and HIPAA compliance (Alaska Administrative Code 12 AAC 54.825 and 12 AAC 54.530, 2008).

The unique condition included in Alaska's telehealth standards is that OTs and PTs must be physically present in the state while performing telerehabilitation. This means that even if an OT or PT has a license to practice in Alaska, they may not treat a patient via telehealth when they are physically located in another state.

CALIFORNIA

California's Board of Occupational Therapy recently approved a new regulation, effective April 2014, that establishes and clarifies standards and expectations associated with the delivery of occupational therapy services via information and communication technologies. The rule clarifies that OTs and occupational therapy assistants (OTAs) using telehealth must have a valid and current license, exercise the same standard of care for telehealth-delivered services as in-person services, provide services consistent with the section of California's Business and Professions Code relating to occupational therapy, and comply with all other provisions of the Occupational Therapy Practice Act and related regulations (California Code of Regulations 16 CCR 4172, 2013). As already required in California Business and Professions Code 2290.5 (2011), oral informed consent must be obtained prior to the use of telehealth to deliver health services.

What distinguishes California's occupational therapy regulations is the requirement that an OT must assess whether or not an in-person evaluation or intervention is necessary, and consider a number of specific factors outlined in the rule, before a telehealth visit can take place. If an in-person encounter is determined to be more appropriate, an on-site therapist, OT, or OTA must be available. This requirement is unique to California OT regulations and is not required in any other telehealth related law or regulation in the state.

KENTUCKY

In 2000 Kentucky passed House Bill (HB) 177, which defines telehealth and addresses the responsibilities of OTs and PTs utilizing telehealth. The law requires OTs and PTs to obtain informed consent from the patient before services are rendered through telehealth (which is also required of other professionals, such as physicians), and that the confidentiality of the patient's medical information is maintained, as required by law. It also prompts the boards of occupational therapy and physical therapy to create rules to address abuse and fraud; fee-splitting; and telehealth use in the provision of occupational therapy, physical therapy and continuing education (HB 177, 2000).

In March 2014 the Kentucky Board of Physical Therapy approved a rule that makes Kentucky the US state with the most detailed telehealth regulations related to physical therapy. The rule lays out a number of tasks that a PT using telehealth must complete upon initial contact or throughout the treatment of a patient:

- "Make reasonable attempts to verify the identity of the patient;
- Obtain alternative means of contacting the patient;
- Provide to the patient alternative means of contacting the therapist;
- Provide contact methods of alternative communication the therapist could use for emergency purposes;
- Not using personal identifying information in non-secure communications;
- Inform the patient and documenting consent;
- Be responsible for determining and documenting that telehealth is appropriate in the provision of physical therapy;
- Limit the practice of telephysical therapy to the area of competence in which proficiency has been gained through education, training and experience;
- Document which physical therapy services were provided by telephysical therapy;
- Follow the record keeping requirements of state law;
- Ensure the confidentiality of communications; and
- Be licensed or authorized by law to practice where the patient is physically located" (KY Administrative Regulations 201 KAR 22:160, 2014).

While many of the above requirements would need to be met as a result of other laws or regulations the PT is required to follow, regardless of the proposed regulation, the Kentucky Board of Physical Therapists opted to re-emphasize them for the use of telehealth.

DISCUSSION

The study found that the occupational therapy and physical therapy laws and regulations that are the most likely to facilitate the use of telehealth include language that explicitly permits telehealth, as well as statements that OT and PT tele-practitioners must adhere to the same standards as expected for in-person service delivery. These laws and regulations contain straight-forward language that clarifies that while OTs and PTs are allowed to use telehealth to deliver direct services, they will still be held to the same confidentiality, record keeping, licensing, privacy, ethics, and care standard laws and regulations that they would otherwise need to follow for in-person delivery.

In contrast, states that either do not address telehealth at all, or only address it in terms of a consultation model of care, can discourage telehealth adoption by leaving OTs and PTs unclear about whether telehealth is an acceptable form of service delivery.

States that incorporate extra telehealth requirements for OTs and PTs risk unnecessarily deterring telehealth use. An example of this is California's Occupational Therapy regulation which places additional burdens upon the OT or OTA before a service via telehealth may be delivered. As noted above, the California Occupational Therapy Board requires that an OT or OTA must determine if an in-person visit is more appropriate before a telehealth visit can take place. If so, an on-site therapist, OT, or OTA (depending on whether the visit is an evaluation or intervention) must be available. This rule raises a number of concerns:

- In order to sufficiently consider the factors outlined in the regulation, an OT may need to first evaluate the patient. If this evaluation cannot take place via telehealth (since these factors need to be taken into account prior to a telehealth-delivered encounter), then it must take place in-person, effectively eliminating telehealth as an option for evaluation.
- It is unclear whether the regulations require this determination to be made before each and every telehealth-delivered service. The current language appears to require the in-person evaluation to take place before any telehealth delivered service occurs, regardless of whether it is the first treatment or one in a series.
- Telehealth is often used when patients do not have local access to a particular provider. Therefore, it may not be feasible for an OT or OTA to be on-site in the event that the distant site OT or OTA determines an in-person service to be more appropriate.

This additional requirement by the California Board of Occupational Therapy negates an important benefit of telehealth, delivering care from a specialist when one is not available locally, and severely hampers patient access to OTs.

Other requirements that are not required in law, or by any other profession, potentially inhibit telehealth use. For example, the California regulation requires the OT to obtain oral informed consent prior to using telehealth to deliver health services. The provision in California Business and Professions Code Section 2290.5(b) (2011) states that the originating site's (the patient's location) health care provider shall obtain the oral informed consent. If the patient decides to directly initiate a telehealth consultation without the presence of a healthcare provider at an originating site, informed consent is not required under the California Business and Professions Code. The California OT regulation now places an additional burden on the OT who presumably would be at the distant site (the location of the treating specialist) if telehealth is used. Such regulations are likely disincentives for OTs to utilize telehealth as a means of service delivery in California as it creates an additional administrative burden, potentially exacerbating provider shortages in some areas throughout the state.

Items included in Kentucky's PT regulation are largely consistent with existing law or common practice. However, it may necessitate PTs providing telehealth-delivered services to develop separate and additional procedures to ensure they can document compliance with all of the regulation's requirements. Although it is reasonable for licensing boards to develop rules designed to protect patient safety, privacy, confidentiality, system security and provider efficacy, in many cases these protections are already covered in other laws and regulations, with proper documentation procedures already in place. Adding another layer of regulation will only serve to complicate matters. As is the case for California's OTs, Kentucky's over-regulation of telehealth can potentially deter PTs from engaging in this service delivery model.

While the California occupational therapy and Kentucky physical therapy regulations are currently unique cases, there is the danger that similar policies will be replicated by other California or Kentucky professional boards, or in other physical or occupational therapy boards in other states. For example, Alaska's Physical Therapy and Occupational Therapy Board replicated their telehealth policy for both the OT and PT professions (Alaska Administrative Code 12 AAC 54.825 and 12 AAC 54.530, 2008). Wyoming and North Dakota's nearly identical telehealth language in regulation further demonstrates the potential for boards in different states to use existing rules and regulations as a template for their own (Code of Wyoming Rules 006-062-001, 2010 & North Dakota Administrative Code 61.5-01-02-01, 2006).

CONCLUSION

Telehealth use and impact for occupational therapy and physical therapy is slowly being explored by states. Most boards remain silent on the issue, and the small number of boards that have ventured into regulating its use have taken various approaches. However, they represent a small percentage. Some state boards constructed legal and regulatory language to clearly allow for telehealth use that adheres OTs and PTs to the same laws and regulations expected for an in-person service. These laws and regulations were found to have the greatest potential to advance telehealth use while simultaneously protecting patient safety and professional integrity. Other state boards enacted more explicit and sometimes potentially restrictive policy, as was the case in a few states such as California, where restrictions placed on telehealth-delivered occupational therapy far exceed what would be the case for an in-person service.

Telehealth standards and regulations created by state OT and PT licensing boards will likely increase, since both the American Occupational Therapy Association (AOTA) and the American Physical Therapy Association (APTA) released guidelines for practice using telehealth. These guidelines outline many of the same policies seen in state law and regulation, including the requirement that OTs and PTs adhere to the same care, ethics, documentation, and privacy standards as in-person service delivery (AOTA, 2013; APTA, 2009). It is anticipated that as states and professional boards consider regulating telehealth, they will look to existing laws and regulations to craft their language. States should be aware of the benefits telehealth provides in terms of meeting the increased patient population spurred by the ACA, and carefully write their laws and regulations in a manner that maintains safety, but also does not gratuitously impede telehealth adoption.

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public inspection. Pending receipt of the current license certificate from the department, the licensee shall display the department's Internet website posting confirming licensure.

Authority: AS 08.84.010 AS 08.84.030 AS 08.84.065

Editor's note: *The current posting confirming licensure can be found at the Internet website of the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing: www.commerce.state.ak.us/occ/search3.htm.*

12 AAC 54.810. SUPERVISION OF OCCUPATIONAL THERAPY ASSISTANTS. (a) An occupational therapy assistant shall work under the supervision of a licensed occupational therapist. To meet this supervision requirement,

(1) at least once per month the occupational therapist supervising the licensed occupational therapy assistant shall be physically present while the occupational therapy assistant being supervised implements a treatment plan with a patient; and

(2) the occupational therapist supervising the occupational therapy assistant shall be available for consultation with the occupational therapy assistant being supervised, through telephone consultations, written reports, or in-person conferences.

(b) If the licensed occupational therapist agrees to supervise an occupational therapy assistant, the occupational therapist shall

(1) determine the frequency and manner of consultations, taking into consideration the treatment settings being used, patient rehabilitation status, and the competency of the occupational therapy assistant being supervised;

(2) fully document the supervision provided, including a record of all consultations provided, and maintain those records at the occupational therapy assistant's place of employment; and

(3) countersign the patient treatment record each time the occupational therapist supervising the occupational therapy assistant is physically present and directly supervises the treatment of a patient by the occupational therapy assistant being supervised.

Authority: AS 08.84.010 AS 08.84.030 AS 08.84.190

12 AAC 54.815. SUPERVISION OF NON-LICENSED PERSONNEL. (a) Regardless of the practice setting, a licensed occupational therapist is solely responsible for the treatment and management of all aspects of occupational therapy care of the patient.

(b) A licensed occupational therapist or occupational therapy assistant may use non-licensed personnel in the delivery of patient-related and non-patient related duties. Patient-related duties performed by non-licensed personnel are not considered the practice of occupational therapy.

(c) A licensed occupational therapist shall assure the training of non-licensed personnel under the supervision of the occupational therapist or occupational therapy assistant, and shall document that training.

(d) The supervising occupational therapist or occupational therapy assistant shall provide continual on-site supervision of non-licensed personnel who are performing patient-related duties.

(e) Nothing in this section restricts the implementation by a teacher or teacher's aide of a program that meets the requirements of AS 08.84.150(b)(6).

Authority: AS 08.84.010

12 AAC 54.820. STANDARDS FOR SUPERVISION. *Repealed 6/10/2010.*

12 AAC 54.825. STANDARDS FOR PRACTICE OF TELEREHABILITATION BY OCCUPATIONAL THERAPIST. (a) The purpose of this section is to establish standards for the practice of telerehabilitation by means of an interactive telecommunication system by an occupational therapist licensed under AS 08.84 and this chapter in order to provide occupational therapy to patients who are located at distant sites in the state which are not in close proximity of an occupational therapist.

(b) An occupational therapist licensed under AS 08.84 and this chapter conducting telerehabilitation by means of an interactive telecommunication system

(1) must be physically present in the state while performing telerehabilitation under this section;

(2) must interact with the patient maintaining the same ethical conduct and integrity required under 12 AAC 54.800;

(3) must comply with the requirements of 12 AAC 54.810 for any licensed occupational therapist assistant providing services under this section;

(4) may conduct one-on-one consultations, including initial evaluation, under this section; and

(5) must provide and ensure appropriate client confidentiality and HIPAA compliance, establish secure connections, activate firewalls, and encrypt confidential information.

Authority: AS 08.84.010

(XIV) The use of telehealth pursuant to rules as may be adopted by the director.

(10) "Occupational therapy assistant" means a person licensed under this article to practice occupational therapy under the supervision of and in partnership with an occupational therapist.

(11) Repealed by Laws 2013, Ch. 411, § 3, eff. June 30, 2013.

(12) "Supervision" means the giving of aid, directions, and instructions that are adequate to ensure the safety and welfare of clients during the provision of occupational therapy by the occupational therapist designated as the supervisor. Responsible direction and supervision by the occupational therapist shall include consideration of factors such as level of skill, the establishment of service competency, experience, work setting demands, the complexity and stability of the client population, and other factors. Supervision is a collaborative process for responsible, periodic review and inspection of all aspects of occupational therapy services and the occupational therapist is legally accountable for occupational therapy services provided by the occupational therapy assistant and the aide.

(13) "Vision therapy services" means the assessment, diagnosis, treatment, and management of a patient with vision therapy, visual training, visual rehabilitation, orthoptics, or eye exercises.

§ 12-40.5-104. Use of titles restricted

(1) Only a person licensed as an occupational therapist may use the title "occupational therapist licensed", "licensed occupational therapist", "occupational therapist", or "doctor of occupational therapy" or use the abbreviation "O.T.", "O.T.D.", "O.T.R.", "O.T./L.", "O.T.D. /L.", or "O.T.R./L.", or any other generally accepted terms, letters, or figures that indicate that the person is an occupational therapist.

(2) Only a person licensed as an occupational therapy assistant may use the title "occupational therapy assistant licensed" or "licensed occupational therapy assistant", use the abbreviation "O.T.A./L." or "C.O.T.A./L.", or use any other generally accepted terms, letters, or figures indicating that the person is an occupational therapy assistant.

§ 12-40.5-105. License required--occupational therapists--occupational therapy assistants--repeal

(1)(a) Prior to June 1, 2014, except as otherwise provided in this article, a person shall not practice occupational therapy or represent himself or herself as being able to practice occupational therapy in this state without possessing a valid registration issued by the director in accordance with this article and any rules adopted under this article. Before June 1, 2014, references in this article to "license" include "registration" and references to "licensee" and "occupational therapist" include "registrant" and "occupational therapist", respectively, as those terms were defined prior to June 30, 2013.

(b) This subsection (1) is repealed, effective June 1, 2014.

(2)(a) On and after June 1, 2014, except as otherwise provided in this article, a person shall not practice

Information maintained by the Legislative Reference Bureau

Updating the database of the Illinois Compiled Statutes (ILCS) is an ongoing process. Recent laws may not yet be included in the ILCS database, but they are found on this site as Public Acts soon after they become law. For information concerning the relationship between statutes and Public Acts, refer to the Guide.

Because the statute database is maintained primarily for legislative drafting purposes, statutory changes are sometimes included in the statute database before they take effect. If the source note at the end of a Section of the statutes includes a Public Act that has not yet taken effect, the version of the law that is currently in effect may have already been removed from the database and you should refer to that Public Act to see the changes made to the current law.

PROFESSIONS, OCCUPATIONS, AND BUSINESS OPERATIONS (225 ILCS 75/) Illinois Occupational Therapy Practice Act.

(225 ILCS 75/1) (from Ch. 111, par. 3701)
(Section scheduled to be repealed on January 1, 2024)

Sec. 1. This Act shall be known and may be cited as the "Illinois Occupational Therapy Practice Act".
(Source: P.A. 83-696.)

(225 ILCS 75/2) (from Ch. 111, par. 3702)
(Section scheduled to be repealed on January 1, 2024)

Sec. 2. Definitions. In this Act:

(1) "Department" means the Department of Financial and Professional Regulation.

(2) "Secretary" means the Secretary of the Department of Financial and Professional Regulation.

(3) "Board" means the Illinois Occupational Therapy Licensure Board appointed by the Secretary.

(4) "Occupational therapist" means a person initially registered and licensed to practice occupational therapy as defined in this Act, and whose license is in good standing.

(5) "Occupational therapy assistant" means a person initially registered and licensed to assist in the practice of occupational therapy under the supervision of a licensed occupational therapist, and to implement the occupational therapy treatment program as established by the licensed occupational therapist.

(6) "Occupational therapy" means the therapeutic use of purposeful and meaningful occupations or goal-directed activities to evaluate and provide interventions for individuals, groups, and populations who have a disease or disorder, an impairment, an activity limitation, or a participation restriction that interferes with their ability to function independently in their daily life roles, including activities of daily living (ADLs) and instrumental activities of daily living (IADLs). Occupational therapy services are provided for the purpose of habilitation, rehabilitation, and to promote health and wellness. Occupational therapy may be provided via technology or telecommunication methods, also known as telehealth, however the standard of care shall be the same whether a patient is seen in person, through telehealth, or other method of electronically enabled health care. Occupational therapy practice may include any of the following:

(a) remediation or restoration of performance abilities that are limited due to impairment in

(3) The surrender of a license shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions under this chapter.

Effective: July 15, 2002
History: Amended 2002 Ky. Acts ch. 14, sec. 13, effective July 15, 2002. -- Amended 1996 Ky. Acts ch. 318, sec. 279, effective July 15, 1996. -- Created 1986 Ky. Acts ch. 78, sec. 19, effective July 15, 1986.

319A.200 Appeals from orders of the board.

Any person aggrieved by an order of the board denying, suspending or revoking his license may appeal to the Franklin Circuit Court within thirty (30) days after entry of said order, for appropriate relief. On such appeal the scope of review shall be limited to an examination of the record of the board's action for the purpose of determining whether the board abused its discretion. The appellant shall furnish the court with a properly certified transcript of any evidence heard by the board, and the court may refuse to review any findings of fact made by the board unless such a transcript is filed within sixty (60) days after the filing of the appeal.

Effective: July 15, 1986
History: Created 1986 Ky. Acts ch. 78, sec. 20, effective July 15, 1986.

319A.210 Short title.

KRS 319A.010 to 319A.200 may be cited as the "Kentucky Occupational Therapy Practice Act."

Effective: July 15, 1986
History: Created 1986 Ky. Acts ch. 78, sec. 21, effective July 15, 1986.

319A.300 Duty of treating occupational therapist utilizing telehealth to ensure patient's informed consent and maintain confidentiality -- Board to promulgate administrative regulations -- Definition of "telehealth". "

(1) A treating occupational therapist who provides or facilitates the use of telehealth shall ensure:
   (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
   (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conform to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
   (a) Prevent abuse and fraud through the use of telehealth services;
   (b) Prevent fee-splitting through the use of telehealth services; and
   (c) Utilize telehealth in the provision of occupational therapy services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

Effective: July 14, 2000
History: Created 2000 Ky. Acts ch. 376, sec. 17, effective July 14, 2000.

OAR 339 – 010 – 0006 Standards of Practice for Telehealth

(1) "Telehealth" is defined as the use of interactive audio and video, in real time telecommunication technology or store-and-forward technology, to deliver health care services when the occupational therapist and patient/client are not at the same physical location. Its uses include diagnosis, consultation, treatment, prevention, transfer of health or medical data, and continuing education.

(2) Telehealth is considered the same as Telepractice for Occupational Therapists working in education settings; and Teletherapy and Telerehab in other settings.

(3) In order to provide occupational therapy services via telehealth **to a patient/client in Oregon**, the occupational therapist providing services to a patient/client must have a valid and current license issued by the Oregon OT Licensing Board. Oregon licensed Occupational Therapists using telehealth technology with a **patient/client in another state** may also be required to be licensed in the state in which the patient/client receives those services and must adhere to those state licensure laws.

(4) Occupational therapists shall obtain informed consent of the delivery of service via telehealth from the patient/client prior to initiation of occupational therapy services via telehealth and maintain documentation in the patient's or client's health record.

(5) Occupational therapists shall secure and maintain the confidentiality of medical information of the patient/client as required by HIPAA and state and federal law.

(6) When providing occupational therapy services via telehealth, an occupational therapist shall determine whether an **in-person evaluation** is necessary and make every attempt to ensure that a therapist is available if an on-site visit is required.
(a) If it is determined **in-person interventions** are necessary, every attempt must be made to ensure that an on-site occupational therapist or occupational therapy assistant shall provide the appropriate interventions.
(b) The obligation of the occupational therapist to determine whether an in-person re-evaluation or intervention is necessary continues during the course of treatment.

(7) In making the determination whether an in-person evaluation or intervention are necessary, an occupational therapist shall consider at a minimum:
(a) the complexity of the patient's/client's condition;
(b) his or her own knowledge skills and abilities;
(c) the patient's/client's context and environment;
(d) the nature and complexity of the intervention;
(e) the pragmatic requirements of the practice setting; and
(f) the capacity and quality of the technological interface.

(8) An occupational therapist or occupational therapy assistant providing occupational therapy services via telehealth must:
(a) Exercise the same standard of care when providing occupational therapy services via telehealth as with any other mode of delivery of occupational therapy services;
(b) Provide services consistent the AOTA Code of Ethics and Ethical Standards of Practice; and comply with provisions of the Occupational Therapy Practice Act and its regulations.

(9) Supervision of Occupational Therapy Assistant under 339-010-0035 for routine and general supervision, can be done through telehealth, but cannot be done when close supervision as defined in 339-010-0005 is required. The same considerations in (7) (A) through (F) must be considered in determining whether telehealth should be used.

(10) An Occupational Therapist who is supervising a fieldwork student must follow the ACOTE standards and other accreditation requirements.

(11) Failure to comply with these regulations shall be considered unprofessional conduct under OAR 339-010-0020.

California LEGISLATIVE INFORMATION

AB-161 Athletic trainers. (2015-2016)

AMENDED IN SENATE AUGUST 31, 2015

AMENDED IN ASSEMBLY MARCH 17, 2015

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

ASSEMBLY BILL **No. 161**

Introduced by Assembly Member Chau
(Coauthors: Assembly Members Cooley and Gordon)
(Coauthors: Senators Anderson and Nielsen)

January 21, 2015

An act to add ~~Chapter 2.7~~ *Chapter 2.6* (commencing with Section 18898) to Division 8 of the Business and Professions Code, relating to athletic trainers.

LEGISLATIVE COUNSEL'S DIGEST

AB 161, as amended, Chau. Athletic trainers.

Existing law provides for the regulation of various professions and vocations, including those of an athlete agent.

This bill would make it unlawful for any person to hold himself or herself out as an athletic ~~trainer or a certified athletic trainer,~~ *trainer, use the title of, among others, athletic trainer,* or to use specified terms to imply or suggest that the person is an athletic trainer, unless he or she is certified by the Board of Certification, Inc., and has either graduated from a college or university, after completing an accredited athletic training education program, as specified, or completed eligibility requirements for certification by the Board of Certification, Inc., ~~prior to January 1, 2004.~~ *as specified.* The bill would make it an unfair business practice to use the title "athletic trainer," "certified athletic trainer," or other specified terms that imply or suggest that the person is an athletic trainer if he or she does not meet the requirements described above.

This bill, notwithstanding these provisions, would authorize a person who has worked as an athletic trainer in California for a period of 20 consecutive years prior to January 1, 2016, and who is not otherwise eligible to use the title "athletic trainer," to use that title.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter ~~2.7~~ *2.6* (commencing with Section 18898) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 2.6. Athletic Trainers

18898. (a) A person shall not hold himself or herself out to be an athletic~~ trainer or a certified athletic trainer, or use the term~~ *trainer, use the title "athletic trainer," "certified athletic trainer," "licensed athletic trainer," "registered athletic trainer," or any other term such as* "AT," "ATC," *"LAT,"* or "CAT" to imply or suggest that the person is an athletic trainer, unless he or she meets the following requirements:

(1) He or she has done either of the following:

(A) Graduated from a college or university after completing an athletic training education program accredited by the Commission on Accreditation of Athletic Training Education, or its predecessors or successors.

(B) Completed eligibility requirements for certification by the Board of Certification, Inc.,~~ prior to January 1, 2004.~~ *or its predecessors or successors.*

(2) He or she is certified by the Board of Certification,~~ Inc.~~ *Inc., or its predecessors or successors.*

(b) It is an unfair business practice within the meaning of Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 for a person to use the title "athletic trainer," "certified athletic~~ trainer" or any other term, such as "certified," "licensed," "registered,"~~ *trainer," "licensed athletic trainer," "registered athletic trainer," or any other term such as* "AT," "ATC," *"LAT,"* or "CAT," that implies or suggests that the person is an athletic trainer, if he or she does not meet the requirements of subdivision (a).

18899. Notwithstanding Section 18898, a person who has worked as an athletic trainer in California for a period of 20 consecutive years prior to January 1, 2016, and who is not otherwise eligible to use the title "athletic trainer," may use the title "athletic trainer."

SENATE COMMITTEE ON
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT
Senator Jerry Hill, Chair
2015 - 2016 Regular

Bill No:	AB 161	**Hearing Date:**	June 8, 2015
Author:	Chau		
Version:	March 17, 2015		
Urgency:	No	**Fiscal:**	No
Consultant:	Sarah Mason		

Subject: Athletic trainers.

SUMMARY: Establishes certification and training requirements for athletic trainers and prohibits individuals from calling themselves athletic trainers unless they meet those requirements.

Existing law: Establishes the Unfair Practices Act which defines unfair competition as any unlawful, unfair, or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising. (Business and Professions (BPC) § 17000 *et. seq.*)

This bill:

1) Makes it unlawful for any person to hold himself or herself out as an athletic trainer or a certified athletic trainer, or use the term "AT", "ATC", or "CAT" to imply the person is an athletic trainer unless he or she is certified by the Board of Certification, Inc., and has done either of the following:

   a) Graduated from a college or university, after completing an accredited athletic training education program, as specified.

   b) Completed eligibility requirements for certification by the Board of Certification, Inc., prior to January 1, 2004.

2) Makes it an unfair business practice for a person to use the title "athletic trainer", "certified athletic trainer" or any other term, such as "certified", "licensed", "registered", "AT", "ATC", or "CAT" that implies or suggests that the person is an athletic trainer, if the person does not meet the requirements set forth in this bill.

3) Provides that a person who has worked as an athletic trainer in California for a period of 20 consecutive years prior to January 1, 2016, and who is not otherwise eligible to use the title "athletic trainer", may use the title "athletic trainer".

FISCAL EFFECT: None. This bill is keyed "nonfiscal" by Legislative Counsel.

COMMENTS:

1. **Purpose.** The California Athletic Trainers' Association (CATA) is the Sponsor of this bill. According to the Author, this bill would ensure that only people with the proper education, training, and certification, may call themselves an athletic trainer. The Author notes that "athletic trainers and other individuals are currently practicing

athletic training – a health care profession – in an unregulated manner." According to the Author, 49 states and the District of Columbia regulate athletic trainers, but in California anyone can label him or herself an athletic trainer without the proper education, training, or certification. The Author points out that in some cases, individuals such as janitors, coaches, shipping and receiving clerks and others have been given the title "Athletic Trainer" and the responsibility for evaluating and managing concussions, spinal cord injuries, shoulder dislocations, and knee injuries.

According to the Author, the lack of oversight of athletic trainers is a consumer protection problem. The athletes with whom these unqualified individuals work, and the employers who hire them, have no way of knowing that these individuals are not qualified to be athletic trainers. The public has no way to determine if someone practicing athletic training is qualified. The public has no way to file a complaint, or ask for a practitioner to be investigated and/or sanctioned for incompetence, unethical practice, or other issues which creates a huge regulatory gap in the healthcare system.

The Author states that AB 161 "would protect Californians by ensuring that individuals calling themselves athletic trainers have had the proper education and training and are certified by a nationally accredited athletic training certification agency."

2. **Athletic Trainers**. In compliance with the sunrise process, CATA completed and submitted an extensive "sunrise questionnaire" to this Committee in December 2011 in support of its proposal for licensure (at the time, a bill proposing licensure was moving through the Legislative process). According to information contained in the sunrise questionnaire, athletic trainers are allied healthcare professionals recognized by the American Medical Association, the American Medical Society of Sports Medicine and others. Athletic trainers work in collaboration with a physician and their education is predicated upon a formalized relationship with a physician, working under established guidelines. According to the sunrise questionnaire, athletic trainers evaluate injuries and determine a patient's disposition, respond to emergencies and make "split second decisions" regarding the management of an injury as well as making decisions regarding the course of rehabilitation. Athletic trainers also make "immediate decisions regarding serious conditions such as concussion, spinal cord injury, heat illness and sudden cardiac arrest without the intervention or advice of other health care professionals" in situations where an incorrect decision could lead to a catastrophic or fatal outcome.

   An individual can become an athletic trainer by graduating with a minimum of a bachelor's degree from an accredited athletic training education program and by passing a national certification examination offered by Board of Certification, Inc. (BOC). According to the sunrise questionnaire, 70 percent of athletic trainers practicing today hold a master's degree or higher. Athletic trainers, like other health care professionals, take science based courses in anatomy, physiology, chemistry and physics and must understand all systems of the body and their normal and pathological functions, including biochemical functions. Athletic training education also includes didactic instruction and clinical training in risk management and injury prevention, orthopedic clinical assessment and diagnosis, medical conditions and

disabilities, acute care of injuries and illness, therapeutic modalities and conditioning and rehabilitative exercise, psychosocial intervention and referral, nutritional aspects of injuries and illness, health care administration and professional development. Although there are currently 16 accredited athletic training programs in California, no person in California is required to obtain a degree or to become certified to work as an athletic trainer.

Currently, there are approximately 2,500 certified athletic trainers practicing in California. Athletic trainers specialize in the prevention, evaluation, immediate care, treatment and rehabilitation of injuries and activity related conditions in a wide range of people engaged in physical activities from professional and amateur athletes to industrial workers and entertainers. Athletic trainers are employed by professional sports teams, colleges and universities, high schools, outpatient rehabilitation clinics, hospitals, industry/corporations, performing arts groups, physicians, the military and other institutions. Nearly 40 percent of athletic trainers in California work with non-athletes from a variety of backgrounds because they may reduce employee injuries and subsequent worker's compensation costs. Information provided in the sunset questionnaire highlighted cost savings of around $7 million annually by a large manufacturing firm with over 3000 employees as a result of the firm hiring five athletic trainers to work in an injury preventive role.

Information provided in the sunrise questionnaire found more than 60 cases of harm as the result of improper care provided by non-certified "athletic trainers." Of 760 respondents who took part in a CATA survey for the sunrise questionnaire, 400 reported instances of harm as the result of improper care due to certified and non-certified athletic trainers. According to the U.S. Department of Labor Division of Practitioner Data Banks, a voluntary reporting repository for sanctions made by state boards, there were 469 reports of sanctions to athletic trainers – both certified and uncertified – from 2000 to 2010. These sanctions were based upon misconduct including incompetent practice/harm, practicing beyond the scope of practice, and sexual misconduct. BOC reported over 2,700 violations of professional practice standards in five years (2005-10) with nearly 300 violations in California, including three sexual offenses, and in some cases included those practicing without a valid certification or practice by those who had lost their licensure in other states.

CATA asserts that there are "currently no other unregulated professions that are providing services similar to those of athletic trainers."

3. **Board of Certification, Inc.** According to their Website, BOC was incorporated in 1989 to provide a certification program for entry-level athletic trainers. BOC establishes and regularly reviews both the standards for the practice of athletic training and the continuing education requirements for BOC certified athletic trainers. BOC asserts that is has the only accredited certification program for athletic trainers in the U.S. Additionally, BOC cites accreditation by the National Commission for Certifying Agencies (NCCA) and requirements that it undergo review and re-accreditation every five years through the NCCA. NCCA is the accreditation body of Institute for Credentialing Excellence, a non-profit organization that provides educational, networking, and advocacy resources to the credentialing community, and is charged with evaluating certification organization for compliance with the NCCA *Standards for the Accreditation of Certification Programs.*

BOC's Website further asserts that they have been responsible for the certification of athletic trainers since 1969. BOC was the certification arm of the professional membership organization of the National Athletic Trainers' Association until 1989 when BOC became an independent non-profit organization. Athletic trainers currently have the option for certification through BOC. For BOC certification, athletic trainers must have received a minimum of a bachelor's degree from a National Athletic Training Association (NATA) accredited institution and pass a comprehensive exam. All states currently regulating athletic trainers utilize the BOC examination which is based on the Commission on Accreditation of Athletic Training Education (CAATE). To retain certification, credential holders must continue taking medical-related courses and adhere to the BOC standards of practice.

4. **Title Act vs. Practice Act Protection**. It is important to note the distinction between "title act" and certification or registration regulation versus "practice act" and licensing regulation. A practice act along with licensure confers the exclusive right to practice a given profession on practitioners who meet specified criteria related to education, experience, and examination, and often is embodied in a statutory licensing act (i.e., those who are not licensed cannot lawfully practice the profession). A practice act is the highest and most restrictive form of professional regulation, and is intended to avert severe harm to the public health, safety or welfare that could be caused by unlicensed practitioners.

   A title act and a certification or registration program, on the other hand, reserves the use of a particular professional (named) designation to practitioners who have demonstrated specified education, experience or other criteria such as certification by another organization. A title act typically does not restrict the practice of a profession or occupation and allows others to practice within that profession; it merely differentiates between practitioners who meet the specified criteria, and are authorized by law to represent themselves accordingly (usually by a specified title) and those who do not. Some title acts also include a state certification or registration program, or reliance on a national certification or registration program, so that those who use the specified title, and hold themselves out to the public, have been certified or registered by a state created or national entity as having met the specified requirements. This entity may also regulate to some extent the activities of the particular profession by setting standards for the profession to follow, and to also provide oversight of the practice of the profession by reporting unfair business practices or violations of the law and either denying or revoking a certification or registration if necessary.

   AB 161 does not establish a licensing practice act, but instead provides for a title act. It restricts the use of the title "athletic trainer" to only those who have met certain education or certification requirements. There is no state program created to provide oversight of this profession; there is, instead, reliance on whether the person meets the education requirements or if they have been certified by a specific corporation and provides awareness to the public that the person has met these qualifications.

5. **Related Legislation.** AB 1890 (Chau) of 2014 was identical to this bill. (Status: *The bill was vetoed by Governor Brown who wrote in his veto message that the conditions set forth in the bill "impose unnecessary burdens on athletic trainers without sufficient evidence that they are really needed."*)

   AB 864 (Skinner) of 2013 would have established the licensure and regulation of athletic trainers through the creation of an Athletic Trainer Licensing Committee under the Physical Therapy Board of California. (Status: *The bill was held under submission in the Assembly Committee on Appropriations.)*

   SB 1273 (Lowenthal) of 2012 was very similar to AB 864. (Status: *The bill failed passage in this Committee.*)

   AB 374 (Hayashi) of 2011 would have established the Athletic Trainer Licensing Committee within the Medical Board of California to license and regulate athletic trainers commencing January 1, 2013, with a sunset date of January 1, 2018. The bill was later amended to provide title protection for athletic trainers. (Status: *The bill was later amended to become a bill by Assemblymember Hill that dealt with funeral embalmers and signed by the Governor.)*

   AB 1647 (Hayashi) of 2010 would have established certification and training requirements for athletic trainers and prohibited individuals from calling themselves athletic trainers unless they meet those requirements. (Status: *The bill was vetoed by Governor Schwarzenegger.*)

   SB 284 (Lowenthal) of 2007 would have enacted the Athletic Trainers Registration Act prohibiting a person from representing himself or herself as a "certified athletic trainer," unless he or she is registered by an athletic training organization. (Status: *The bill was vetoed by Governor Schwarzenegger.*)

   SB 1397 (Lowenthal) of 2006 would have enacted the Athletic Trainers Certification Act, prohibiting a person from representing him or herself as an athletic trainer unless he or she is certified as an athletic trainer by an athletic training organization, as defined. (Status: *The bill was vetoed by Governor Schwarzenegger.*)

   AB 614 (Lowenthal) of 2003 would have required the DCA to submit a recommendation to the Legislature as to whether the state should license and regulate athletic trainers by January 1, 2006, if the DCA is provided with an occupational analysis of persons providing athletic trainer services by July 1, 2005. (Status: *This bill was held in this Committee to allow JCBCCP to examine whether athletic trainers should be licensed as part of the "sunrise" process.*)

   AB 2789 (Lowenthal) of 2002 would have required the Department of Consumer Affairs to review the need for licensing of athletic trainers and undertake an occupational analysis. (Status: *This bill was held under submission in the Assembly Committee on Appropriations.*)

6. **Arguments in Support.** The California Athletic Trainers Association (CATA) writes in support of this bill, noting that California is the only state that does not regulate the profession. CATA states that "The unregulated status of the athletic training

profession is a major public health concern. Currently, uneducated and unqualified individuals including janitors and shipping/receiving clerks are posing as athletic trainers and providing healthcare to our vulnerable population without the proper education or training. Individuals who have lost their national certification or license in other states are practicing in California and calling themselves athletic trainers with absolute impunity."

Advocates for Injured Athletes also supports this bill, writing that "certified athletic trainers are able to assess catastrophic injuries. In San Diego County, there have been 2 neck fractures in high school athletes that have resulted in lives saved thanks to the care from a certified athletic trainer." The organization states that athletic trainers deserve title protection.

The American Medical Society for Sports Medicine writes in support, noting that "in the current environment, literally anyone can call themselves an athletic trainer, allowing many individuals to act as athletic trainers in the state of California who are not properly trained as athletic trainers. Currently, the California public has no means of ensuring clinical competence in the profession of athletic training."

According to Board of Certification, Inc., "It is unfortunate that California is a safe haven for those who have never gone through the educational and training rigors of athletic training or, perhaps worse, lost their athletic training license in another state or lost their BOC certification." BOC writes that an athletic trainer may lose their BOC certification and their license to practice in Arizona for example and there is nothing stopping the uncertified, unlicensed individual from moving to California and continuing to practice athletic training – thereby putting patients at risk.

The University of California Southern California also supports this bill, writing that "given the complexity of the work involved, USC believes it's important that only those individuals who use the Athletic Trainer title demonstrate the educational, training and certification qualifications outlined in AB 161."

SUPPORT AND OPPOSITION:

Support:

California Athletic Trainers' Association (CATA) (Sponsor)
Advocates for Injured Athletes
Association of Independent California Colleges and Universities (AICCU)
American Medical Society for Sports Medicine
Board of Certification, Inc. (BOC)
California College and University Police Chiefs
University of California Southern California (USC)
2,500 individuals

Opposition:

None on file as of June 2, 2015.

-- END --

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 161
Author: Chau (D), et al.
Amended: 8/31/15 in Senate
Vote: 21

SENATE BUS, PROF. & ECON. DEV. COMMITTEE: 9-0, 6/8/15
AYES: Hill, Bates, Berryhill, Block, Galgiani, Hernandez, Jackson, Mendoza, Wieckowski

ASSEMBLY FLOOR: 80-0, 4/20/15 (Consent) - See last page for vote

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SUBJECT: Athletic trainers

SOURCE: California Athletic Trainers' Association

DIGEST: This bill establishes certification and training requirements for athletic trainers and prohibits individuals from calling themselves athletic trainers unless they meet those requirements.

Senate Floor Amendments of 8/31/15 made technical changes.

ANALYSIS: Existing law establishes the Unfair Practices Act which defines unfair competition as any unlawful, unfair, or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising. (Business and Professions (BPC) § 17000 et. seq.)

This bill:

1) Makes it unlawful for any person to hold himself or herself out as an athletic trainer or a certified athletic trainer, use the title "athletic trainer," "certified athletic trainer," "licensed athletic trainer," "registered athletic trainer," or any other term such as "AT", "ATC", "LAT" or "CAT" to imply the person is an athletic trainer unless he or she is certified by the Board of Certification, Inc. (BOC), and has done either of the following:

a) Graduated from a college or university, after completing an accredited athletic training education program, as specified.

b) Completed eligibility requirements for certification by BOC, or its predecessors or successors.

2) Makes it an unfair business practice for a person to use the title "athletic trainer", "certified athletic trainer" trainer," "licensed athletic trainer," "registered athletic trainer," or any other term such as, "AT", "ATC", "LAT" or "CAT" that implies or suggests that the person is an athletic trainer, if the person does not meet the requirements set forth in this bill.

3) Provides that a person who has worked as an athletic trainer in California for a period of 20 consecutive years prior to January 1, 2016, and who is not otherwise eligible to use the title "athletic trainer", may use the title "athletic trainer".

Background

According to the author, this bill ensures that only people with the proper education, training, and certification, may call themselves an athletic trainer. The author notes that "athletic trainers and other individuals are currently practicing athletic training – a health care profession – in an unregulated manner." According to the author, 49 states and the District of Columbia regulate athletic trainers, but in California anyone can label him or herself an athletic trainer without the proper education, training, or certification. The athletes with whom these unqualified individuals work, and the employers who hire them, have no way of knowing that these individuals are not qualified to be athletic trainers. The public has no way to determine if someone practicing athletic training is qualified. The public has no way to file a complaint, or ask for a practitioner to be investigated and/or sanctioned for incompetence, unethical practice, or other issues which creates a huge regulatory gap in the healthcare system.

Athletic Trainers. In compliance with the sunrise process, the California Athletic Trainers' Association completed and submitted an extensive "sunrise questionnaire" to the Senate Committee on Business, Professions and Economic Development in December 2011 in support of its proposal for licensure (at the time, a bill proposing licensure was moving through the legislative process). According to information contained in the sunrise questionnaire, athletic trainers are allied healthcare professionals recognized by the American Medical

Association, the American Medical Society of Sports Medicine and others. Athletic trainers work in collaboration with a physician and their education is predicated upon a formalized relationship with a physician, working under established guidelines. According to the sunrise questionnaire, athletic trainers evaluate injuries and determine a patient's disposition, respond to emergencies and make "split second decisions" regarding the management of an injury as well as making decisions regarding the course of rehabilitation. Athletic trainers also make "immediate decisions regarding serious conditions such as concussion, spinal cord injury, heat illness and sudden cardiac arrest without the intervention or advice of other health care professionals" in situations where an incorrect decision could lead to a catastrophic or fatal outcome.

An individual can become an athletic trainer by graduating with a minimum of a bachelor's degree from an accredited athletic training education program and by passing a national certification examination offered by BOC. According to the sunrise questionnaire, 70 percent of athletic trainers practicing today hold a master's degree or higher. Athletic trainers, like other health care professionals, take science based courses in anatomy, physiology, chemistry and physics and must understand all systems of the body and their normal and pathological functions, including biochemical functions. Athletic training education also includes didactic instruction and clinical training in risk management and injury prevention, orthopedic clinical assessment and diagnosis, medical conditions and disabilities, acute care of injuries and illness, therapeutic modalities and conditioning and rehabilitative exercise, psychosocial intervention and referral, nutritional aspects of injuries and illness, health care administration and professional development.

Currently, there are approximately 2,500 certified athletic trainers practicing in California. Athletic trainers specialize in the prevention, evaluation, immediate care, treatment and rehabilitation of injuries and activity related conditions in a wide range of people engaged in physical activities from professional and amateur athletes to industrial workers and entertainers. Nearly 40 percent of athletic trainers in California work with non-athletes from a variety of backgrounds because they may reduce employee injuries and subsequent worker's compensation costs. Information provided in the sunset questionnaire highlighted cost savings of around $7 million annually by a large manufacturing firm with over 3,000 employees as a result of the firm hiring five athletic trainers to work in an injury preventive role.

Information provided in the sunrise questionnaire found more than 60 cases of harm as the result of improper care provided by non-certified "athletic trainers." Of 760 respondents who took part in a survey for the sunrise questionnaire, 400 reported instances of harm as the result of improper care due to certified and non-certified athletic trainers. According to the U.S. Department of Labor Division of Practitioner Data Banks, a voluntary reporting repository for sanctions made by state boards, there were 469 reports of sanctions to athletic trainers – both certified and uncertified – from 2000 to 2010. These sanctions were based upon misconduct including incompetent practice/harm, practicing beyond the scope of practice, and sexual misconduct. BOC reported over 2,700 violations of professional practice standards in five years (2005-10) with nearly 300 violations in California, including three sexual offenses, and in some cases included those practicing without a valid certification or practice by those who had lost their licensure in other states.

Title Act vs. Practice Act Protection. It is important to note the distinction between "title act" and certification or registration regulation versus "practice act" and licensing regulation. A practice act along with licensure confers the exclusive right to practice a given profession on practitioners who meet specified criteria related to education, experience, and examination, and often is embodied in a statutory licensing act (i.e., those who are not licensed cannot lawfully practice the profession). A practice act is the highest and most restrictive form of professional regulation, and is intended to avert *severe harm* to the public health, safety or welfare that could be caused by unlicensed practitioners.

A title act and a certification or registration program, on the other hand, reserves the use of a particular professional (named) designation to practitioners who have demonstrated specified education, experience or other criteria such as certification by another organization. A title act typically does not restrict the practice of a profession or occupation and allows others to practice within that profession; it merely differentiates between practitioners who meet the specified criteria, and are authorized by law to represent themselves accordingly (usually by a specified title) and those who do not. Some title acts also include a state certification or registration program, or reliance on a national certification or registration program, so that those who use the specified title, and hold themselves out to the public, have been certified or registered by a state created or national entity as having met the specified requirements. This entity may also regulate to some extent the activities of the particular profession by setting standards for the profession to follow, and to also provide oversight of the practice of the profession by reporting unfair business practices or violations of the law and either denying or revoking a

certification or registration if necessary.

AB 161 does not establish a licensing practice act, but instead provides for a title act. It restricts the use of the title "athletic trainer" to only those who have met certain education or certification requirements. There is no state program created to provide oversight of this profession; there is, instead, reliance on whether the person meets the education requirements or if they have been certified by a specific corporation and provides awareness to the public that the person has met these qualifications.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 9/1/15)

California Athletic Trainers' Association (source)
Advocates for Injured Athletes
American Medical Society for Sports Medicine
Association of Independent California Colleges and Universities
Board of Certification, Inc.
California College and University Police Chiefs Association
University of Southern California
2,500 individuals

OPPOSITION: (Verified 9/1/15)

None received

ARGUMENTS IN SUPPORT: Supporters note that California is the only state that does not regulate the profession and the unregulated status of the athletic training profession is a major public health concern because currently, uneducated and unqualified individuals, including janitors and shipping/receiving clerks, are posing as athletic trainers and providing healthcare to a vulnerable population without the proper education or training. Supporters also write that certified athletic trainers are able to assess catastrophic injuries and cite the example of San Diego County where there have been two neck fractures in high school athletes that resulted in lives saved thanks to the care from a certified athletic trainer. Supporters note that currently, the California public has no means of ensuring clinical competence in the profession of athletic training and given the complexity of the work involved, it is important that only those individuals who use the Athletic Trainer title demonstrate the educational, training and certification qualifications outlined in AB 161.

ASSEMBLY FLOOR: 80-0, 4/20/15
AYES: Achadjian, Alejo, Travis Allen, Baker, Bigelow, Bloom, Bonilla, Bonta, Brough, Brown, Burke, Calderon, Campos, Chang, Chau, Chávez, Chiu, Chu, Cooley, Cooper, Dababneh, Dahle, Daly, Dodd, Eggman, Frazier, Beth Gaines, Gallagher, Cristina Garcia, Eduardo Garcia, Gatto, Gipson, Gomez, Gonzalez, Gordon, Gray, Grove, Hadley, Harper, Roger Hernández, Holden, Irwin, Jones, Jones-Sawyer, Kim, Lackey, Levine, Linder, Lopez, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Mullin, Nazarian, Obernolte, O'Donnell, Olsen, Patterson, Perea, Quirk, Rendon, Ridley-Thomas, Rodriguez, Salas, Santiago, Steinorth, Mark Stone, Thurmond, Ting, Wagner, Waldron, Weber, Wilk, Williams, Wood, Atkins

Prepared by: Sarah Mason / B., P. & E.D. / (916) 651-4104
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