

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR

(See instructions on reverse)

For use by Secretary of State only

ENDORSED - FILED in the office of the Secretary of State of the State of California

JAN 11 2017

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STD. 400 (REV. 01-2013)

OAL FILE NUMBERS, NOTICE FILE NUMBER (Z-2015-0915-12), REGULATORY ACTION NUMBER (2016-1201-05 S), EMERGENCY NUMBER

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RECEIVED FOR FILING PUBLICATION DATE (SEP 15 '15, SEP 25 '15), OFFICE OF ADMINISTRATIVE LAW, NOTICE, REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY: California Board of Occupational Therapy

AGENCY FILE NUMBER (if any)

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

1. SUBJECT OF NOTICE: Telehealth; TITLE(S): 16; FIRST SECTION AFFECTED: 4172; 2. REQUESTED PUBLICATION DATE: September 25, 2015; 3. NOTICE TYPE: Regulatory Action; 4. AGENCY CONTACT PERSON: Jeff Hanson; TELEPHONE NUMBER: (916) 263-2092; FAX NUMBER: (916) 263-2701; OAL USE ONLY: Approved as Submitted; ACTION ON PROPOSED NOTICE: Approved as Modified; NOTICE REGISTER NUMBER: 2015, 89-2; PUBLICATION DATE: 9/25/2015

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S): Telehealth; 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related); ACTION(S) AFFECTED: ADOPT, AMEND (4172), REPEAL; TITLE(S): 16

3. TYPE OF FILING: Regular Rulemaking (Gov. Code §11346), Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4), Emergency (Gov. Code, §11346.1(b)), Certificate of Compliance, Emergency Readopt (Gov. Code, §11346.1(h)), File & Print, Other (Specify), Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100), Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1): December 2, 2015 to December 18, 2015

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100): Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)), Effective on filing with Secretary of State, §100 Changes Without Regulatory Effect, Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY: Department of Finance (Form STD. 399) (SAM §6660), Fair Political Practices Commission, State Fire Marshal, Other (Specify): Awet Kindane, Director, Department of Consumer Affairs

7. CONTACT PERSON: Heather Martin; TELEPHONE NUMBER: (916) 263-2294; FAX NUMBER (Optional): (916) 263-2701; E-MAIL ADDRESS (Optional): heather.martin@dca.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE: Heather Martin; DATE: 1 Dec 2016; TYPED NAME AND TITLE OF SIGNATORY: Heather Martin, Executive Officer, California Board of Occupational Therapy

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California Board of Occupational Therapy  
Department of Consumer Affairs

Title 16, Division 39, California Code of Regulations

**ORDER OF ADOPTION**

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

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

**§ 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.~~

~~(c) (d) In making the determination~~ An occupational therapist shall determine whether an in-person evaluation or in-person interventions are necessary, ~~an occupational therapist shall consider~~ considering: 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.

~~(d) (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.

~~(e) (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.