

**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**

**FINAL STATEMENT OF REASONS**

**Hearing Date:** Not Applicable (No request from the public was received)

**Subject Matter of Proposed Regulations:** Notice to Consumers

**Sections Affected:** Title 16, Division 39, California Code of Regulations, Section 4176

**Updated Information:**

The Initial Statement of Reasons is included in the file describing the reason, rationale, and necessity of this proposed action.

On September 1, 2016, the Board noticed and made available modified text. The Board struck reference to a licensee being required to provide a license number when providing notice to consumers. More specifically, 'license type' remained 'and number' was struck from Section 4176 (b) and (c)(1). The reason the Board struck this reference is that a license number is not legally required in Business and Professions Code (BPC) section 680, the authorizing statute.

On October 10, 2016, the Board noticed and made available a second modified text. The Board added "as specified in (b), (c), and (d) below" to the language in Section 4176(a). The purpose of the change was to clarify that subdivisions (b), (c), and (d) fall within the intent and meaning of section 4176(a). In addition, a technical edit was affected in Section 4176(c)(1). The word 'License' in 'License type' was incorrectly capitalized. The sentence should have read 'license type' not 'License type.'

In addition, a technical edit was affected in Section 4176(c)(1). The word 'Licensee's' in 'Licensee's first and last name' was incorrectly capitalized; the sentence should read, "... provide the following personal information: 'licensee's first and last name; license type; and highest level of..."

The technical error has been corrected in the Order of Adoption that is enclosed in this rulemaking file.

For clarification purposes the meaning and intent of language contained on page two, paragraphs three and five, in the Initial Statement of Reasons, should have read as following: "...is intended to comply with and implement a requirement for ..."

**Local Mandate:** None

### **Business Impact/Finding of Necessity:**

The Board has determined this proposed action will not have an adverse economic impact on business in California. This proposed action serves to and implement a requirement for occupational therapy practitioners to wear a name tag in 18 point font that provides the first and last name, license type, and highest level of earned academic degree related to the provision of occupational therapy services or in the alternative prominently displays a copy of their license in the practice area or office where the practitioner works.

This proposed action is designed to promote the Board's mission to regulate the practice of occupational therapy and protect the health, safety, and welfare of California consumers.

### **Consideration of Alternatives:**

No reasonable alternative was considered by the Board would be more effective in carrying out the purpose for which the regulation was proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The only alternative is to do nothing, which would not achieve the purpose of the regulations.

### **Summary of Public Comments Received During 45-day Comment Period:**

Beth Anderson, an occupational therapist (OT), expressed her concern about implementation of proposed action. She felt the intent of this proposal is reasonable but she did not feel that this type of regulation is the best way to put the proposed action into practice and it does not reflect the diverse environments in which it will be implemented. Her concerns were related to the OTs employed by agencies. Ms. Anderson said that the agency should provide consumers evidence of license verification on request.

*Board Response: The Board rejected the objection because the proposed regulation implements and makes specific BPC Section 138, 680, and 680.5. The proposed regulation does not take into account whether a licensee is self-employed or not; BPC 680 requires healthcare practitioners to disclose their names and license status and does not require the public to request to the practitioner or their employer to provide this information. The intent of the proposed action is for the consumer to be advised of the of the name, license type, and highest level of earned academic degree of the practitioner up front and at the onset of services being provided to promote transparency to consumer.*

### **Summary of Public Comments Received During the First 15-day Comment Period:**

The Board received two (2) public comments on the proposed regulatory action during the first 15-day comment period:

1. Cheryl Domino (OT) suggested adding school districts to Section 4176(d). She also mentioned it is not appropriate for the practitioners to give the copies of their licenses

to the students. The practitioners are required to wear their picture badges identifying their profession.

*Board Response: The Board acknowledges and appreciates the suggestions and the concerns of the practitioner. The objection was rejected by the Board because the facility types exempted in the proposal are specified in BPC Section 680.5 and school districts are not included. The OT mentioned it is not appropriate for the practitioners to give copies of their licenses to the students but if they wear the name tag they do not have to give copies of their licenses to the students.*

2. Thomas Passerino (OT) also suggested adding school districts to Section 4176(d). He said the practitioners are provided name badges with their titles. Mr. Passerino said that the practitioners work with children in classrooms, lunch room, school campus, and school buses, etc. and it would be difficult or impossible to display their licenses. He requested the Board to consider exempt status for all school-based OTs and OTAs and be added to the existing list of 13 facilities with this exempt status.

*Board Response: The Board acknowledges and appreciates the suggestions and the concerns of the practitioner. The objection was rejected by the Board because the facility types exempted in the proposal are specified in BPC Section 680.5 and school districts are not included.*

### **Summary of Public Comments Received During the Second 15-Day Comment Period:**

The Board did not receive any comments pertaining to this proposed action.