

**TITLE 16. CALIFORNIA BOARD OF OCCUPATIONAL THERAPY  
DEPARTMENT OF CONSUMER AFFAIRS**

**INITIAL STATEMENT OF REASONS**

**Hearing Date:** No hearing scheduled

**Subject Matter of Proposed Regulations:** Applications

**Section(s) Affected:** Title 16, Division 39, California Code of Regulations (CCR), Article 2. Applications sections 4110, 4111, 4112, 4114

**Background and Statement of the Problem:**

The California Board of Occupational Therapy (Board) licenses, regulates, and investigates complaints against occupational therapy practitioners in California. The licensing categories, totaling more than 25,400 licensees and limited permit holders include: occupational therapist license, occupational therapy assistant license, occupational therapist limited permit, and occupational therapy assistant limited permit. It is the Board's duty to enforce and administer the Occupational Therapy Practice Act, Chapter 5.6 sections 2570-2572 of Division 2, of the Business and Professions Code (BPC). Specifically, BPC 2570.20 (a) and (b) states "the board shall administer, coordinate, and enforce the provisions of this chapter, evaluate the qualifications for licensure, and may approve the examinations for licensure under this chapter. The board shall adopt rules in accordance with the Administrative Procedure Act necessary to effectuate the purpose of this chapter for persons holding a license to practice occupational therapy or to assist in the practice of occupational therapy in this state." Prior to the inception of the BreEZe system, individuals applying to the Board for an Occupational Therapist license, an Occupational Therapy Assistant license, or limited permit could not submit their applications online. As of October 2016, applicants have an option to submit their applications in person or online, thus eliminating the necessity of the phrase "if available" found in the current regulation, as discussed more below. The proposed language will specify that the application can now be accepted via on-line submission and will clarify the definition of "received" as it pertains to the application submission process. By proposing removing the use of the phrase "accepted for filing" and replacing it with the word "received" it is more consistent with the Board's current business process, since staff does not notify the applicant of acceptance, but rather approval of their applications.

The proposed language will also decrease the time the Board must hold on to an application for licensure that has been abandoned but will increase the number of days an approved applicant has to pay for their initial license. This is necessary as applicants who are not yet working may need more time to produce the required funds.

Due to the online capability of the BreEZe system, applicants can submit all of their documents electronically. Thus, the Board decided to reduce abandonment time for applications not completed within one year instead of two years. The Board also proposes to extend the time for applicants to submit their initial license and limited permit fees from 60 days to 90 days to give new graduates extra time to secure employment.

The National exam can now be taken online thus drastically reducing the processing time. Additionally, the visa process for foreign applicants has become more efficient and can be completed in one year.

Lastly, the proposed language will clarify the limited permit application abandonment process by separating the acts of applying for the limited permit and paying the fee to receive the limited permit number. The proposed language will notify the limited permit applicant that their application fee will be forfeited if the application is abandoned because board staff completed the review process despite the applicant not completing the application.

The proposed language was considered and approved by the Board at its August 24-25, 2023, Board Meeting.

### **Anticipated benefits from this regulatory action:**

This proposal will establish a consistent and simple process for the regulated public to follow for submitting applications online. It will also explain and provide clear guidance to the regulated public on the process for how long the Board will hold on to an application before considering it abandoned.

### **Specific purpose of, and rationale for, each adoption, amendment, or repeal:**

#### **1. Amend Section 4110(a) Applications**

Current regulation section 4110(a) requires individuals seeking an occupational therapist or occupational therapy assistant license and/or limited permit to submit an application entitled “Initial Application for Licensure, Form ILA, Rev. 9/2020” or if available to provide the same information via on-line submission, accompanied by the appropriate fees, to the Board.

The Board proposes to delete the words “if available,”.

##### **A. Purpose:**

The application is available online which was not an option in the past.

##### **B. Rationale:**

The application for licensure and/or limited permit is available online in the BreEZe system so “if available,” are being removed.

#### **2. Add Section 4110(b)**

##### **A. Purpose:**

Current law does not inform the regulated public when the application will be deemed received by the board. The new language will clarify an application will be deemed

'received' by the Board upon receipt of the application and payment of the application fee, whichever occurs last.

B. Rationale:

If an applicant pays the application fee only or applies without the application fee their application is not considered "received" unless both the application and the application fee are submitted. The review process will begin after that. The application form will be updated accordingly. This change will inform the regulated public about when their application is officially received. The application and the fee must be received in order for the Board to deem it "received." An application is deemed "received" when the Board receives the application and the application fee, whichever occurs last.

3. Amend Section 4111. Place of Filing

Current regulation section 4111 requires applications to be filed with the Board's principal office.

The Board proposes to add "or submitted on-line in the BreEZe system."

A. Purpose:

To inform the regulated public how the applications must be filed and giving them two options for filing; either with the Board's principal office or submitted on-line in the BreEZe system.

B. Rationale :

Since the implementation of the BreEZe system, the applicants can submit their applications online. This gives applicants an option to submit their applications in person or online.

4. Amend Section 4112. Review of Application

Current regulation section 4112 defines the application review process including the timeline for the applicant to be informed of the status of their application, in writing.

The Board proposes to replace "accepted for filing" with "approved."

A. Purpose:

To advise the regulated public that the Board staff has approved the application.

B. Rationale:

"Approved" is a more generally accepted term in the field than "accepted for filing." The staff does not notify the applicant of acceptance, but rather approval of their applications.

## 5. Amend Section 4114(a). Abandonment of Application

Current regulation 4114(a) defines an application for a license shall be deemed abandoned and the application fee forfeited when the applicant fails to complete the application within two years after it is originally received by the Board, or the applicant fails to submit the Initial license fee within sixty (60) days after the date of notification of eligibility for an initial license by the Board.

The Board is proposing instead that an application for licensure shall be deemed abandoned when the applicant fails to complete the application within one year after it is originally received by the Board, or the applicant fails to submit the initial license fee within ninety (90) days after the date of notification of approval by the Board.

### A. Purpose:

The Board's proposed actions will eliminate the possibility of an indefinite extension of the abandonment period. This will ensure that the information contained in the application, i.e., fieldwork experience, out-of-state disciplinary action, criminal history, etc., is no more than one year old at the time of application approval.

The proposed language will also increase the number of days allowed for submitting the initial license fee after the application is approved from sixty (60) to ninety (90) days to give the applicant more time to accept and pay the initial license fee.

### B. Rationale:

The National exam can now be taken online thus drastically reducing the processing time. Additionally, the visa process for foreign applicants has become more efficient and can be completed in one year.

Allowing ninety (90) days for applicants to pay their initial license fees gives the new graduate additional time to obtain the required funds.

## 6. Amend Section 4114(b) and (b)(1) and Add Section (b)(2)

Current regulation section 4114(b) states an application for a limited permit shall be deemed abandoned and the application fee forfeited if the applicant fails to complete the application or submit the required fee within sixty (60) days after it is originally received by the Board.

In addition to the current law, the Board also proposes that if the applicant fails to submit the limited permit fee within thirty (30) days after the date of notification of approval by the Board, the application will be deemed abandoned. Further, the Board proposes that any application fee attached to an abandoned application is thereby forfeited.

### A. Purpose:

The Board's proposed actions will give the Board the additional ability to deem an

application abandoned if a limited permit application is not timely received as well as the authority to keep any fees if an application has been abandoned.

B. Rationale :

A limited permit is for new graduates who are waiting for their national exam results in order to be approved for their initial license. A limited permit is valid for three (3) months from the date of issuance by the Board, upon receipt of a failing result, or two (2) weeks following the expiration of the applicants' eligibility to test period, whichever occurs first.

Requiring the limited permit fee be paid within thirty (30) days after the date of notification of approval by the Board is sufficient because the applicant can start working while waiting for their initial license application to be approved. They must act quickly in order to benefit from a limited permit or decide to wait for their initial license.

Because there is still work being done by Board staff to process applications that have been deemed abandoned, it is necessary to give the Board the authority to keep application fees for abandoned applications to cover the workload costs.

7. Add Section 4114(d)

Current law does not provide for an application fee for a limited permit to be forfeited once an application has been deemed abandoned.

The Board proposes any application fee will be forfeited if the application is deemed abandoned.

A. Purpose:

To provide staff a mechanism for not reimbursing any fees received if a limited permit application is deemed abandoned and to provide notice to the regulated community that if an application for a limited permit is deemed abandoned that any application fees received will be forfeited.

B. Rationale:

Application fees are not based on approval, but rather on the time it took Board staff to review and acknowledge, thus staff review time must be compensated.

Minor grammatical changes were made to the text after it was approved by the Board, upon delegation to the Executive Officer.

**Underlying Data**

- Minutes: Full Board Meeting, August 24 - 25, 2023.
- Meeting Materials: Full Board Meeting, August 24 - 25, 2023.

### **Business Impact:**

These regulations will not have an adverse economic impact on business, including the inability of California businesses to compete with businesses in other states.

This initial determination is based on the fact that this proposal updates provisions related to the administration and processing of an individual's license application.

The Board has determined that the proposed regulations may affect small businesses. Although small businesses owned by an individual licensee of the Board may be impacted the Board does not maintain data relating to the number or percentage of licensees who own a small business; therefore, the number or percentage of small businesses that may be impacted cannot be predicted.

Under this proposal any individual having been determined to have abandoned their license application will be required to re-apply and pay an additional license fee of \$50. The Board estimates up to 16 individuals per year currently have to re-apply for licensure after their first application is deemed abandoned due to failing to complete their application or submit their initial license fee timely. Under this proposal these individuals will be required to pay \$50 for licensure, which would result additional costs of \$800 per year.

The regulations do not impose the following reporting or recordkeeping requirements.

### **Economic Impact Assessment:**

This Board has determined that this regulatory proposal:

- Will not create or eliminate jobs within the State of California because this proposal is related to the administration and processing of an individual's license application.
- Will not create new business or eliminate existing businesses within the State of California because this proposal is related to the administration and processing of an individual's license application.
- Will not affect the expansion of businesses currently doing business within the State of California because this proposal is related to the administration and processing of an individual's license application.

This regulatory proposal does not affect the health and welfare of California residents because this proposal is related to the administration and processing of an individual's license application.

This regulatory proposal does not affect worker safety because this proposal is related to the administration and processing of an individual's license application.

This regulatory proposal does not affect the state's environment because this proposal is related to the administration and processing of an individual's license application.

**Specific Technologies or Equipment:**

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

**Consideration of Alternatives:**

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

No such alternatives have been proposed, however, the Board welcomes comments from the public.

**Description of reasonable alternatives to the regulation that would lessen any adverse impact on small business:**

No such alternatives have been proposed, however, the Board welcomes comments from the public.