CONSIDERATION OF STRATEGIC PLAN.

Attached for review are the following:

- 2007 Strategic Plan
- 2011 Proposed Strategic Plan

To view the Board's 2007 Strategic Plan please go to:

http://www.bot.ca.gov/forms_pubs/strategic_plan2007.pdf

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

STRATEGIC PLAN ~~2007~~ 2011-XXXX

INTRODUCTION

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

~~As of September 1, 2007, 9,588 occupational therapists and 1,688 occupational therapy assistants have been licensed or certified in California.~~

As of July 1, 2011, 11,917 occupational therapists and 2,160 occupational therapy assistants have been licensed in California.

Current:

VISION

The California Board of Occupational Therapy is recognized as the model organization for all occupational therapy state regulatory boards, ensuring consumer protection and quality occupational therapy services.

Proposed:

VISION

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

Current:

MISSION

The mission of California Board of Occupational Therapy is to regulate the practice of occupational therapy.

Proposed:

MISSION

The mission of the California Board of Occupational Therapy is to regulate occupational therapy by serving and protecting California's consumers and licensees. Through an efficient licensing process, the Board is able to ensure access to quality services and to professional and qualified licensees

Current:

CORE VALUES

The California Board of Occupational Therapy will strive for the highest possible quality throughout all of its programs making it an outstanding regulatory organization by:

A. Providing excellent customer service to consumers, practitioners, employers and other stakeholders;
B. Upholding ethical standards of practice and applying the law fairly and consistently;
C. Supporting and recognizing the diverse practice settings and roles of occupational therapy practitioners;
D. Providing opportunities for active participation to all stakeholders; and
E. Ensuring a high level of effectiveness and efficiency by Board members and staff.

Proposed:

CORE VALUES

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

F. Providing excellent customer service to consumers, licensees, employers and other stakeholders;
G. Promoting, applying, and enforce ethical standards of occupational therapy;
H. Implement fair and consistent application of the laws and regulations governing occupational therapy;
I. Recognizing and supporting the diverse practice settings and roles in occupational therapy;
J. Encouraging active participation by stakeholders through access to the Board;
K. Ensuring a high level of professionalism, efficiency, and effectiveness by the Board members and staff.

Current:

STRATEGIC GOALS

The following strategic goals were identified:

Goal 1: Enforce the laws and regulations governing occupational therapy and provide an effective means for resolving consumer complaints.

Goal 2: Inform the public and other entities about the profession and practice standards.

Goal 3: Ensure adequate consumer access to both occupational therapy services and occupational therapy education training.

Goal 4: Monitor evolving trends and modify statutes and regulations consistent with current and future trends and standards in the occupational therapy profession.

Goal 5: Communicate with, educate and inform licensees of current statutes, regulatory changes, and practice trends and standards.

Goal 6: Ensure that those seeking licensure meet minimum standards of competency through education, continuing education fieldwork, and examination.

Goal 7: Streamline Board operations to ensure efficiency and effectiveness.

Proposed:

STRATEGIC GOALS

The following strategic goals were identified:

Goal 1: Enforce the laws and regulations governing occupational therapy by effectively investigating consumer complaints, concluding with an appropriate response.

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

Goal 3: Monitor evolving trends and standards in occupational therapy, modify statutes and regulations as needed, and promptly inform licensees of these changes.

Goal 4: Inform the public, licensees, and other entities about occupational therapy requirements, evidence-based practices, standards and trends through accessible "Green" communication methodologies.

STRATEGIC OBJECTIVES (current)

Goal 1: Enforce the laws and regulations governing occupational therapy by effectively investigating consumer complaints, concluding with an appropriate response.

OBJECTIVE	STATUS	LRP 2011
~~1.1 Review the continuing competency requirements to determine relevance and need for altered enforcement procedures.~~	~~Board committee chair (advisory)~~	~~Ongoing~~
1.1 Fully audit no less than 5% of renewing licensees, to determine if continuing competency requirements are met	continue	1.1
~~1~~.1.B Provide quarterly report of trends and recommendations to the Board.	continue	Goal #3
1.2 Review the Advanced Practice regulations to determine relevance and need for altered enforcement procedures.	continue	3.1
1.3 Review the regulations regarding the supervision parameters to ensure congruency with established best practices	continue	3.1
~~1.4~~ Review the laws and regulations for licensing requirements to ensure consistency with occupational therapy competencies defined by ACOTE, NBCOT, and others~~.~~	continue	3.1
1.2 Establish and maintain a pool of 20 expert witnesses to review enforcement cases	continue	1.2
1.3 Target 90 % of complaints investigated by Board staff will be completed in less than 90 days.	new	1.3
~~1.6.A Acknowledge complaints in writing within 10 days.~~	Routine board operations	delete
~~1.6.B Advise complainants in writing of complaint status and closure in a timely manner.~~	Routine board operations	delete
~~1.6.C Annually evaluate the ease and use of complaint process.~~	Routine board operations	delete
~~1.7 Ensure the enforcement program is adequately staffed to perform its duties in a timely manner.~~	Routine board operations	delete
1.4 Ensure the enforcement program is sufficiently funded and staffed to ensure consumer protection with prompt actions.	new	1.4

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

OBJECTIVE	STATUS	LRP 2011
2.1 Increase education and outreach efforts to consumers regarding laws and regulations affecting occupational therapy	Education committee and EO ongoing	4.1
2.1.A Develop and make available consumer-related informational brochures (i.e. 'What is OT?' and 'The Complaint Process.')	EO ongoing	4.1 a
2.1.B Participate in at least four community programs and public events annually to educate the public about occupational therapy	EO + Board members ongoing	4.1b
~~2.2 Enhance professional relationships with various associates as they relate to occupational therapy issues, including: American Occupational Therapy Association (AOTA); Occupational Therapy Association of California (OTAC); National Board for Certification in Occupational Therapy (NBCOT); and Accreditation Council for Occupational Therapy Education (ACOTE)~~	Routine board operations	delete
2.3 Active collaboration with other health care professionals (i.e. physical therapists, speech-language pathologists and audiologists, nurses, physicians, social workers and other mental-health practitioners, etc.) to ensure that those professions and the public are informed about occupational therapy, and that the occupational therapy regulations and enforcement procedures are applicable, adequate and relevant.	EO/Board chair ongoing	4.2
2.4 Active collaboration with the Department of Health Services, the Department of Mental Health, the Department of Veteran's Affairs, the Department of Correction and Rehabilitation, the Legislative Bodies and other governmental entities, are adequately informed about OT and that their respective laws and regulations are updated appropriately.	amended	4.3
2.5 Hold public Board and Committee meetings that are accessible and informative.	ongoing	integrated into Goal #4
2.6 Maintain an informative and educational website that benefits all stakeholders.	ongoing	Integrated into Goal 4, 1.5 & 3.5

Goal 3: Ensure adequate consumer access to both occupational therapy services and occupational therapy education training.

OBJECTIVE	STATUS	LRP 2011
3.1 Identify and analyze workforce trends and report back to Board.	Ongoing but amended	Integrated into Goal 3
3.2 ~~Ensure compliance with current regulations~~.	Routine operations	delete
~~3.3 Evaluate current laws and regulations to ensure consistency and identify and reduce barriers to occupational therapy roles in disaster preparedness and response~~	met	delete
~~3.4 Review access to occupational therapy education programs and training and determine how to reduce barriers to participation~~		delete
3.5 Identify other requirements, regulations, and work conditions that negatively impact occupational therapy practice in all areas of clinical practice, education and research	Amended into new LRP	3.1

Goal 4: Monitor evolving trends and modify statutes and regulations consistent with current and future trends and standards in the occupational therapy profession.

OBJECTIVE	STATUS	LRP 2011
4.1 Identify and track changes in trends in areas of OT practice, education and research, and respond accordingly	ongoing	3.1
4.2 Review and modify regulations to reflect what is identified under 4.1	ongoing	3.2
4.3 Establish ad hoc committee to review current regulatory requirements and report back under item 4.2	ongoing	3.2
4.4 Annually review and develop continuing competency regulations according to trends and best practices.	ongoing	3.3
4.5 Review Accreditation Council for Occupational Therapy Education (ACOTE) standards (Effective January 1, 2008) and determine the impact to Advanced Practice approval requirements	ongoing	2.1

Goal 5: Communicate with, educate and inform licensees of current statutes, regulatory changes, and practice trends and standards.

OBJECTIVE	STATUS	LRP 2011
5.1 Educate practitioners of laws and regulations impacting OT scope of practice	ongoing	3.4 a
5.1.A ~~Provide licensees laws and regulations booklet~~		delete
5.1.B Prepare Newsletter and send to licensees on quarterly basis	ongoing	3.4
5.2 -Educate practitioners of what constitutes illegal practice	ongoing	2.2
5.3 Education and outreach to inform practitioners what constitutes impaired practice	ongoing	2.2
5.4 ~~Develop and conduct workshops on the advanced practice application process and continuing competency supervision requirements~~.		delete
5.5 Inform practitioners of complaint process and develop ways to encourage practitioners to attend Board meetings.	ongoing	Integrated into Goal 4
5.6 Encourage practitioners to attend Board meetings.	ongoing	Integrated into Goal 4

Goal 6: Ensure that those seeking licensure meet minimum standards of competency through education, continuing education fieldwork, and examination.

OBJECTIVE	STATUS	LRP 2011
6.1 ~~Ensure the examinations are legally defensible and appropriate within California~~.	met	delete
6.2 ~~Review OT/OTA practice analysis by NBCOT and utilize outcomes in decision-making~~.	met	delete
6.3 Closely monitor the education review process (by ACOTE) and report to the Board annually	ongoing	2.1

Goal 7: Streamline Board operations to ensure efficiency and effectiveness.

OBJECTIVE	STATUS	LRP
7.~~1 Develop and maintain policies and procedures to ensure consistent and standardized operations of staff and Board, including~~:	Routine board operations	delete
7.1.A ~~Processing cashiering functions~~	Replaced	3.5
7.1.B ~~Processing of initial applications and limited permits~~.	Replaced	3.5
7.1.C ~~Processing of renewals,~~	Replaced	3.5
7.1.D Processing of complaints.	ongoing	1.2
7.1.E Processing of citations	ongoing	1.2
7.2 ~~Develop performance measurements for all areas of operations, including:~~	Routine operations	delete
7.2.A ~~Cashiering~~	Routine operations	delete

7.2.B ~~Processing of initial applications~~	Routine operations	delete
7.2.C ~~Processing of renewals~~	Routine operations	delete
7.2.D ~~Processing of complaints~~	Routine operations	delete
7.2.E ~~Processing of citations~~	Routine operations	delete
~~7.3 Determine categories of routine data collection for sunset review and other annual reports~~	Routine operations Required by dept and sunset review	delete
7.4 ~~Annual evaluation of website to determine effectiveness (formerly 2.5)~~	routine	delete
7.5 ~~Explore and develop methods to evaluate Board and individual members' performance in carrying out responsibilities and strategic plan.~~	Ongoing operations	2010

Establish and maintain a pool of 50 expert witnesses and expert reviewers to review enforcement cases and Advanced Practice applications

Revised:

STRATEGIC GOALS

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

1.1 Fully audit no less than 5% of renewing licensees, to determine if continuing competency requirements are met.
1.2 Establish and maintain a pool of 20 expert witnesses to review enforcement cases
1.3 Target 90 % of complaints investigated by Board staff will be completed in less than 90 days. (old 7.2.D and 7.2.E)
1.4 Ensure the enforcement program is sufficiently funded and staffed to ensure consumer protection with prompt actions.
1.5 Post disciplinary process on Board's website. (Revised Former 5.5)

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

2.1 Research the implications of revised (2008) Accreditation Council for Occupational Therapy Education (ACOTE) standards and determine relevance to and impact on Advanced Practice requirements by 2013. (Former 4.6)
2.2 Investigate the value and cost of developing a jurisprudence examination on professional standards of conduct. (Replaces 5.2 - Educate practitioners of what constitutes illegal practice and 5.3 - Provide education and outreach to inform practitioners what constitutes impaired practice.)

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

3.1 Practice Committee will identify and track changes in areas of OT practice, education and research, and advise the Board.
3.2 The Legislative and Regulatory Review Committee will identify and track legislation and review regulations which affect OT practice and advise the Board.
3.3 Annually review continuing competency requirements relevant to identified best practices, standards and trends
3.4 Send quarterly notifications to advise and update practitioners of laws and regulations.
3.4.a Educate practitioners of laws and regulations impacting OT scope of practice.
3.5 Through on-line licensure forms (BreEze) 80% of the licensure renewal and initial licensure applications for the profession will be done via Internet.
3.6 Provide at least 2 Board meetings annually and committee meetings when possible via electronic communication to increase accessibility to Board deliberations.

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

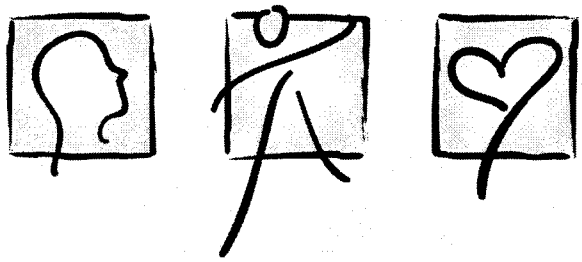
4.1 Increase education and outreach efforts to consumers regarding laws and regulations affecting occupational therapy
4.1.a. Develop and make available consumer-related informational brochures (i.e. 'What is OT?' and 'The Complaint Process.')
4.1.b. Participate in at least four community programs and public events annually to educate the public about occupational therapy
4.2 Active collaboration with other health care professionals (i.e. physical therapists, speech-language pathologists and audiologists, nurses, physicians, social workers and other mental-health practitioners, etc.) to ensure that those professions and the public are informed about occupational therapy, and that the occupational therapy regulations and enforcement procedures are applicable, adequate and relevant.
4.3 Active collaboration with the Department of Health Services, the Department of Mental Health, the Department of Veteran's Affairs, the Department of Correction and Rehabilitation, the Legislative Bodies and other governmental entities, are adequately informed about OT and that their respective laws and regulations are updated appropriately.

CONSIDERATION OF THE BOARD'S ADMINISTRATIVE MANUAL.

The current Administrative Manual is attached for review.

State of California
Department of Consumer Affairs

California
BOARD OF OCCUPATIONAL THERAPY



BOARD MEMBER GUIDELINES AND PROCEDURES MANUAL

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Preface

This document is a summary of existing laws as well as internal Board policies and procedures. Effective February 21, 2008, the date of adoption of this document, all previous internal Board policies and procedures are rescinded.

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Introduction

Overview

The California Board of Occupational Therapy (Board) was established on January 1, 2001 (Senate Bill 1046, Chapter 697, Statutes of 2000) to protect the health, safety, and welfare of California consumers by regulating the practice of occupational therapists and occupational therapy assistants. It is one of several boards, bureaus, commissions and committees under the umbrella of the Department of Consumer Affairs (DCA), which provides administrative oversight and support services. The Board is autonomous and sets its own policies, procedures and regulations.

Strategic Plan

The Board's mission, vision, goals, objectives and action plans are in its Strategic Plan which was originally adopted in July 2004. The Strategic Plan will be reviewed annually and revised as needed.

Abbreviations

Agencies

CBOT	California Board Occupational Therapy
CDPH	California Department of Public Health
DCA	Department of Consumer Affairs
DDS	Department of Developmental Services
DHCS	Department of Health Care Services
DMH	Department of Mental Health
DVA	Department of Veterans Affairs
OAH	Office of Administrative Hearings
OAL	Office of Administrative Law
SCSA	State and Consumer Services Agency

Codes

BPC	Business and Professions Code
CAC	California Administrative Code
CCR	California Code of Regulations
CEC	California Education Code
CGC	California Government Code
HSC	Health and Safety Code
WIC	Welfare and Institutions Code

Organizations

ACOTE	Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association
APTA	American Physical Therapy Association
AOTA	American Occupational Therapy Association
ASHA	American Speech-Language-Hearing Association

Abbreviations (Cont.)

ASHT	American Society of Hand Therapists
CPIL	Center for Public Interest Law
CLEAR	Council on Licensure, Enforcement and Regulation
FARB	Federation of Associations of Regulatory Boards
HTCC	Hand Therapy Certification Commission
NBCOT	National Board for Certification in Occupational Therapy
OTAC	Occupational Therapy Association of California
RESNA	Rehabilitation Engineering Society of North America
WFOT	World Federation of Occupational Therapy

Titles

AG	Attorney General
ALJ	Administrative Law Judge
CHT	Certified Hand Therapist
COTA	Occupational Therapy Assistant Certified by NBCOT
DA	District Attorney
DAG	Deputy Attorney General
EO	Executive Officer
OT	Occupational Therapist
OTA	Occupational Therapy Assistant
OTR	Occupational Therapist Registered with NBCOT

Chapter 1. Board

Composition

(B&P section 2570.19)

The Board is composed of seven members of which, by law, includes:

- Four practitioners, including three occupational therapists and one occupational therapy assistant
- Three public members

The Governor appoints the four practitioners and one of the public members. One public member is appointed by the Assembly Speaker, and one public member is appointed by the Senate Rules Committee. Board members may serve up to two consecutive four-year terms.

Officers

(Board Policy – February 21, 2008)

The Board shall elect from its members a President, Vice President, and a Secretary to hold office for one calendar year or until their successors are duly elected.

Elections shall take place at the last meeting of the Board held annually. New officers shall assume office at the first meeting held in the next calendar year following the Officer elections. All officers may be elected on one motion or ballot as a slate of officers unless objected to by a Board member.

If the office of President becomes vacant, an election shall be held at the next scheduled Board meeting. Elected officers shall then serve the remainder of the term.

Officer Duties

(Board Policy – February 21, 2008)

The President shall preside over the meetings, and supervise the Executive Officer.

The Vice President acts in the President's absence.

The Secretary shall be responsible for taking roll.

Meetings

(B&P section 2570.19)

The Board will meet a minimum of three times a year and may meet more often as it determines necessary.

The Board will hold meetings in the cities of Sacramento, Los Angeles, and San Francisco and different geographic areas throughout the state as a convenience to the public and licensees.

Board Member Attendance at Board Meetings

(Board Policy – February 21, 2008)

Board members shall attend each meeting of the Board. If a member is unable to attend, he/she is requested to contact the Executive Officer.

Quorum

(Common Law)

Four members of the Board constitute a quorum of the Board for the transaction of business. (A majority of the statutory number of members, BPC 2570.19, not a majority of the appointees.)

Agenda Items

(Board Policy – February 21, 2008)

Any Board member may submit items for a Board meeting agenda to the Board President or Executive Officer. Items shall be requested during a Board meeting or at least 21 days prior to the meeting.

The Board meeting agenda package will be sent to Board members 10 or more days prior to the meeting.

Record of Meetings

(Board Policy – Adopted date*)*

The minutes are a summary, not a transcript, of each Board meeting.

The minutes and Assignments of Board Directives shall be prepared by Board staff and submitted for review by the Board President within 20 working days after the Board meeting.

Board minutes shall be approved at the next scheduled Board meeting and serve as the official record of the meeting.

Once draft Board minutes and Assignments of Board Directives are distributed to Board members, they can be included in any Committee agenda package with the understanding that the draft minutes shall not be circulated but will be used to expedite the committee work.

Approved minutes of the open session are available for distribution to the public and shall be posted on the Board's website.

Tape Recording

(Board Policy – February 21, 2008)

Public Board meetings are tape-recorded. Tape recordings shall be retained until the minutes are adopted; the tape(s) shall then be destroyed. Closed session proceedings shall be taped at the discretion of the Board.

Meeting Rules

(Board Policy – February 21, 2008)

Board meetings will be conducted under Robert's Rules of Order to the extent that it does not conflict with the Bagley-Keene Open Meeting Act <u>or any other section of law</u>.

Communication

(Board Policy – February 21, 2008)

The Board President, his/her designee or the Executive Officer shall serve as spokesperson to the media on Board actions or policies.

Any written or oral communications concerning Board matters of a sensitive nature shall be made only by the Board President, his/her designee or the Executive Officer.

Staff shall provide Board members with Committee and Board member contact information on a quarterly basis.

Correspondence

(Board Policy – February 21, 2008)

Originals of all correspondence received shall be maintained in the Board's office files consistent with the record retention schedule. Only copies of such correspondence shall be given to the Executive Officer and/or Board members as required.

Executive Officer Evaluation

(CGC section 11126(a)(4))

(Board Policy – February 21, 2008)

Each Board Member shall provide input to the Board President regarding the performance appraisal and salary administration of the Executive Officer.

The performance appraisal of the Executive Officer shall be presented in draft form to the Board by the Board President at the annual election meeting.

Matters relating to the performance of the Executive Officer shall be discussed in closed session unless he or she requests that it be discussed in open session.

Board Member Training

(CGC section 11146 et seq.)

(Board Policy – February 21, 2008)

New and continuing Board members shall complete training in accordance with the law and DCA procedures. The Executive Officer shall ensure compliance by annually reviewing the training completed by Board members.

Required training topics include, at a minimum:

- Diversity
- Ethics
- Sexual Harassment Prevention
- Privacy Protection/Identity Theft, and
- Board Member Orientation

Chapter 2. Board President

The duties of the Board President include, but are not limited to:

Supervision of Executive Officer

(Board Policy – February 21, 2008)

The Board President means President or President's designee. The President is the immediate supervisor of the Executive Officer. Specific instructions for work on Board policy matters by the Executive Officer from board members shall be coordinated through the Board President.

The incoming Board President shall assume all delegated duties at the close of the annual election meeting, including supervision of the Executive Officer.

Performance Appraisal of Executive Officer

(CGC section 11126(a)(4))

(Board Policy – February 21, 2008)

The Board President shall request from each Board Member input to the performance appraisal and salary administration of the Executive Officer prior to his/her draft preparations.

The performance appraisal of the Executive Officer shall be presented in draft form to the Board by the Board President at the annual election meeting.

Matters relating to the performance of the Executive Officer shall be discussed in closed session unless he or she requests that it be discussed in open session.

Chapter 3. Board Members

Per Diem Salary

(B&P Section 103)

Business and Professions Code Section 103 regulates compensation in the form of per diem salary and reimbursement of travel and other related expenses for Board members. In relevant part, this section provides for the payment of per diem salary for Board members "for each day actually spent in the discharge of official duties," and provides that the Board member "shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties."

Business and Professions Code Section 103 also states, "Notwithstanding any other provision of law, no public officer or employee shall receive per diem salary compensation for serving on those boards, commissions, committees, or the Consumer Advisory Council on any day when the officer or employee also received compensation for his or her regular public employment."

(Board Policy – February 21, 2008)

Accordingly, the following general guidelines shall be adhered to in the payment of per diem salary, or reimbursement for travel:

1. Board members shall be paid salary per diem for attendance at official Board and Committee meetings of which they are members. Board members cannot claim per idem salary for time spent traveling to and form a Board or Committee meeting. Salary per diem shall not be paid for preparation time for Board of Committee meetings, which would include such things as reading the meeting materials.

   Where it is necessary fore a Board member to leave early from a meeting, the Board President shall determine if the member has provided a substantial service during the meeting and, if so, shall authorize payment of salary per diem and reimbursement for travel-related expenses.

2. Boar members shall be paid salary per diem for attendance at education and outreach events, or other events including but not limited to hearings, conferences or meetings other than official Board or Committee meetings that are approved in advance by the Board President. The Executive Officer shall be notified of the event prior to the Board member's attendance. Board members will be compensated for

Per Diem Salary (Cont.)

actual time spent attending events other than official Board of Committee meetings, and preparation time for said events, based on submission of an approved attendance form. Per diem salary shall be paid upon evidencing six (6) hours of actual time spent. Hours may be accumulated over several events to meet this requirement.

3. Board-specified work and performance of state roles or additional assigned duties, Board members will be compensated for actual time spent performing work authorized in advance by the Board President based on submission of an approved attendance form. Per diem salary shall be paid upon evidencing six (6) hours of actual time spent. Hours may be accumulated for Board-specified assignments to meet this requirement.

Chapter 4. Executive Officer

Appointment

(B&P section 2570.21)

The Board appoints an Executive Officer who serves at the pleasure of the Board. He/She may be terminated at any time for any reason whatsoever, with or without good cause, and notwithstanding any representation to the contrary by any individual board member.

Role

(CCR Section 4101)

(Board Policy – February 21, 2008)

The Executive Officer is the Board's chief administrative officer. He/she implements the policies developed by the Board.

Recruitment

(Board Policy – February 21, 2008)

The Board shall institute an open recruitment plan to obtain a pool of qualified Executive Officer candidates. It shall also utilize proven equal employment opportunity and personnel recruitment procedures. The Board shall also work with the Department of Consumer Affairs' Deputy Director for Board relations in its recruitment process.

Selection

(Board Policy – February 21, 2008)

A qualified candidate for Executive Officer must demonstrate abilities that include the supervision of employees, conflict resolution and complaint mediation, public speaking and effective written and verbal communication skills. The candidate must have knowledge and expertise in the areas of administration, licensing, enforcement, legislation and budget.

(CGC section 11125)

The selection of a new Executive Officer shall be included as an item of business, which must be included in a written agenda and transacted at a public meeting.

Board Staff

(Board Policy – February 21, 2008)

The Board delegates all authority and responsibility for management of the civil service staff to the Executive Officer, including the annual evaluation and appraisal.

Performance Appraisal of Executive Officer

(CGC section 11126(a)(4))

(Board Policy – February 21, 2008)

The Board shall evaluate the performance of the Executive Officer on no less than an annual basis.

Matters relating to the performance of the Executive Officer shall be discussed in closed session unless he or she requests that it be discussed in open session.

Chapter 5. Committees

Standing Committees

(Board Policy – February 21, 2008)

The Board has six standing committees:

- Administrative Committee
- Disaster Preparedness/Disaster Response Committee
- Education and Outreach Committee
- Enforcement Committee
- Legislative and Regulatory Affairs Committee
- Practice Committee

Internal organization of each committee is at its discretion, except as specified in this manual, and shall be approved by the Board.

Administrative Committee

(Board Policy – February 21, 2008)

The Administrative Committee consists of the President and Vice President.

Terms shall be two years, and members shall serve a maximum of two full, consecutive terms.

Meetings shall be held two or three times per year or as work requires.

The purpose of the Administrative Committee is to annually update the Strategic Plan, respond to items identified in an internal audit and provide guidance to staff in fulfillment of the audit staff's recommendations, provide guidance to staff for the budgeting and organizational components of the Board (i.e., sunset review, sunrise projects, budget change proposals, out-of-state trip requests, contracts, meeting agendas and preparations) and other duties as required.

Disaster Preparedness/ Disaster Response Committee

(Board Policy – February 21, 2008)

The Disaster Preparedness/Disaster Response Committee shall consist of four members, one of whom shall be a Board member.

The Committee members shall elect a chairperson, whom shall be responsible for overseeing the meeting(s) and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting.

Member terms shall be two years, and members shall serve a maximum of two full, consecutive terms.

Meetings shall be held two or three times per year or as work requires.

The purpose of the Disaster Preparedness/Disaster Response Committee is to identify and provide input into reducing barriers to occupational therapy roles in disaster preparedness and response, review the current laws and regulations to ensure consistency, be responsible for the development and maintenance of the Board's Disaster Response plan, and provide input into updates of the Board's Continuity of Operations and Continuation of Government (COOP/COG) report.

Members may be asked to represent the Board at meetings held regarding emergency/disaster response (i.e., meetings held by the California Department of Public Health, the Governor's Office of Emergency Services, local government, etc.)

Education and Outreach Committee

(Board Policy – February 21, 2008)

The Education and Outreach Committee shall consist of four members, one of whom shall be a Board member.

The Committee members shall elect a chairperson, whom shall be responsible for overseeing the meeting(s) and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting.

Member terms shall be two years, and members shall serve a maximum of two full, consecutive terms.

Meetings shall be held two or three times per year or as work requires.

Education and Outreach Committee

The purpose of the Education and Outreach Committee is to develop consumer and licensee outreach projects, including the Board's newsletter, website, e-government initiatives and outside organization presentations.

Members may be asked to represent the Board at meetings, conferences, health, career or job fairs, or at the invitation of outside organizations and programs.

Enforcement Committee

(Board Policy – February 21, 2008)

The Enforcement Committee shall consist of four members, one of whom shall be a Board member. The Committee members shall elect a chairperson, whom shall be responsible for overseeing the meeting and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting. Terms shall be two years, and members shall serve a maximum of two full, consecutive terms.

Meetings shall be held two or three times per year or as work requires.

The purpose of the Enforcement Oversight Committee is to continually seek ways to improve the Board's enforcement activities, develop and review enforcement policies, review enforcement and discipline-related regulatory proposals, review enforcement and discipline-related forms, review and make recommendations regarding the Board's disciplinary guidelines and to assist in identifying situations where enforcement procedures might be improved.

Please note: Members will <u>not</u> review individual enforcement cases.

Legislative/Regulatory Affairs Committee

(Board Policy – February 21, 2008)

The Legislative/Regulatory Affairs Committee shall consist of four members, one of whom shall be a Board member.

The Committee members shall elect a chairperson, whom shall be responsible for overseeing the meeting(s) and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting.

Terms shall be two years, and members shall serve a maximum of two full, consecutive terms.

Meetings shall be held two or three times per year or as work requires.

The purpose of the Legislative/Regulatory Affairs Committee is to provide information and/or make recommendations to the Board and committees of the Board on matters relating to legislation and regulations affecting the regulation of Occupational Therapists, Occupational Therapy Assistants and other items in the public interest or affecting Board operations.

The Committee's goals and objectives are to:

- Monitor current legislation on behalf of the Board and make position recommendations to the Board at each Board meeting.
- Serve as a resource to other Board committees on legislative and regulatory matters.
- Serve as a resource for the Board to implement proposed revisions to the Act and Board regulations.

The classification system to be used by the Legislative/ Regulatory Affairs Committee in recommending Board positions is:

- Support:

  The Board supports the current version of the bill. This designation commits the Board to full involvement in the legislative process including sending letters to key people, conferring with key people prior to committee hearings and testifying at hearings by Board members, Legislative Committee members or senior staff.

Legislative/Regulatory Affairs Committee (Cont.)

- Support if Amended:
  The Board generally supports the concept or intent of the bill. Technical flaws need to be corrected before the Board will fully support the bill. The Board identifies the amendments or requirements that must be met in order for support to be obtained. Should the requested amendments or requirements be accepted, the Board's position will change to support. This designation commits the Board to full involvement in the legislative process as discussed above.

- Oppose:
  The Board is opposed to the current version of the bill. This designation commits the Board to involvement in the legislative process as discussed above.

- Oppose Unless Amended:
  The Board is opposed to the bill but is willing to work with the author and sponsor of the bill to resolve the Board's concerns about the bill. The Board identifies the amendments or requirements that must be met to remove the Board's opposition. Should the requested amendments or requirements be accepted, the Board will adopt a support position.
- Watch
  The Board has some interest in the bill because it potentially may affect the work of the Board. This designation requires careful tracking through the legislative process.

Practice Committee

(Board Policy – February 21, 2008)

The Practice Committee shall consist of seven members, one of whom shall be a Board member. The members shall include a diverse representation for a variety of work settings.

Terms shall be two years, and members shall serve a maximum of two full, consecutive terms.

Meetings shall be held two or three times per year or as work requires.

The purpose of the Practice Committee is to review and provide recommendations to staff on Applications for Advanced Practice Post-Professional Education courses;

review and provide recommended responses to the Board on various practice issues/questions submitted by licensees and consumers; provide guidance to staff on continuing competency audits; review and provide recommendations to the Board on practice-related proposed regulatory amendments; and review and provide recommendations to Board staff on revisions to various applications and forms used by the Board.

Ad Hoc Committees

(Board Policy – February 21, 2008)

The Board may establish ad hoc committees as needed.

Advisory Capacity

(Board Policy – February 21, 2008)

Committee recommendations and reports shall be submitted to the Board for consideration and possible action.

Agendas

(Board Policy – February 21, 2008)

Agendas shall focus on the specific tasks assigned by the Board and include:

- Public comment
- Time for committee members to recommend new areas of study to be brought to the Board's attention for possible assignment.
- Only those information items dealing with subjects assigned to the respective committee.

Committee chairs shall confer with the Board President prior to including any agenda item that is not clearly within that committee's assigned purview.

If more than two Board members will attend a Committee meeting, the agenda shall contain the statement: "Notice of a Board meeting indicates that three or more members of the Board are present. While the law requires the Board to notice this also as a Board meeting, it is not the intent to take action as a Board at this meeting."

Appointments

(Board Policy – Adopted date*)*

At the last meeting before the end of the fiscal year, standing committees shall make recommendations for possible members.

The Board President shall appoint, subject to the approval of the Board, the members to fill positions with expired terms of each standing committee and appoint members to ad hoc committees.

Attendance at Committee Meetings

(Board Policy – February 21, 2008)

Board members who are not members of the committee may attend a committee meeting and observe but not participate or vote.

It is recommended that non-Committee Board members sit in the audience and not participate in the meeting discussion.

Dual Membership

(Board Policy – February 21, 2008)

A non-Board member cannot serve concurrently on more than two standing advisory committees.

Meeting Rules

(Board Policy – February 21, 2008)

Meetings will be conducted under Robert's Rules of Order to the extent that it does not conflict with the Bagley-Keene Open Meeting Act or any other section of law.

Minimum Qualifications

(Board Policy – February 21, 2008)

The minimum qualifications for a licensee member of a standing advisory committee are:

- Five years of professional experience
- Current California licensure as an occupational therapist or occupational therapy assistant, without restriction,
- No pending or prior disciplinary action.

Record of Meetings

(Board Policy – February 21, 2008)

The minutes are a summary, not a transcript of each committee meeting. The minutes shall be prepared by Board staff and submitted for review by Committee members within 20 working days of the meeting.

Committee minutes shall be approved at the next scheduled Committee meeting and serve as the official record of the meeting.

Approved minutes of the open session are available to the public, upon request, and shall be posted on the Board's website.

Recruitment

(Board Policy – February 21, 2008)

The Board shall recruit interested persons to serve on appropriate committees.

Reimbursement of Travel-related Expenses

(Board Policy – February 21, 2008)

Committee members are entitled to be reimbursed for all travel-related expenses to attend Committee meetings.

Residence Requirement

(Board Policy – February 21, 2008)

A member of a standing advisory committee must be a California resident.

Staff Participation

(Board Policy – February 21, 2008)

Board staff provides advice, consultation and support to committees.

Tape Recording

(Board Policy – February 21, 2008)

Committee meetings are tape-recorded. Tape recordings shall be retained until the minutes are adopted; the tape(s) shall then be destroyed.

Chapter 6. Travel Procedures

Travel Approval

(Board Policy – February 21, 2008)

Board members shall have the Board President's approval for all travel except for regularly scheduled Board and Committee meetings to which the Board member is assigned.

If a Board member requests within the 10-day notice period to attend a meeting of a committee of which he or she is not a member and such request requires the meeting to be noticed also as a Board meeting, the request may not be approved.

Arrangements for Board member travel are made by Board members or the Board's staff.

Arrangements for Committee member travel are made by the Board's staff.

If a conference is held out of state, the President and/or Executive Officer may only attend if an Out of State Travel Request has been approved by the Department of Finance. If the conference is not an approved OST, there will be no reimbursement for travel-related expenses.

Claims for Reimbursement of Travel-related expenses

(Board Policy – February 21, 2008)

Board members shall have the Board President's approval for all travel except for regularly scheduled Board and Committee meetings to which the Board member is assigned.

Chapter 7. Security Procedures

Request for Records Access

(Board Policy – February 21, 2008)

No Board member may access a licensee's or applicant's file without the Executive Officer's knowledge and approval of the conditions of access except as consistent with the Public Records Act, Information Practices Act, and other relevant sections of law. A notation of the Board member's access to the record shall be entered in the file. Records or copies of records shall not be removed from the Board's office.

Contact with Applicants, Licensees, Complainants, and Respondents

(Board Policy – February 21, 2008)

Board members shall not intervene on behalf of a applicant or licensee for any reason. They should forward all contacts or inquiries to the Executive Officer or Board staff.

Board members shall not directly participate in complaint handling and resolution or investigations. If a Board member is contacted by a respondent or his/her attorney, he/she shall refer the individual to the Executive Officer or Board staff.

Gifts from Applicants

(Board Policy – February 21, 2008)

Gifts of any kind to Board members or staff from applicants for licensure, applicants or other interested organizations with the Board shall not be permitted.

Chapter 8. Affiliation With Other Organizations

AOTA

(Board Policy – February 21, 2008)

The Board shall maintain membership in the American Occupational Therapy Association (AOTA). The President, President's designee, and/or Executive Officer shall represent the Board at AOTA's Annual Conference. If AOTA's Annual Conference is held out of state, the President and/or Executive Officer may only attend if an Out of State Travel Request has been approved by the Department of Finance. If the conference is not an approved OST, there will be no reimbursement for travel-related expenses.

CLEAR

(Board Policy – February 21, 2008)

The Board may maintain membership in the Council on Licensure, Enforcement and Regulation (CLEAR). If CLEAR's Annual Conference is held out of state, the President and/or Executive Officer may only attend if an Out of State Travel Request has been approved by the Department of Finance. If the conference is not an approved OST, there will be no reimbursement for travel-related expenses.

NBCOT

(Board Policy – February 21, 2008)

The Board may maintain membership in the National Board for Certification in Occupational Therapy (NBCOT). If NBCOT's Annual Conference is held out of state, the President and/or Executive Officer may only attend if an Out of State Travel Request has been approved by the Department of Finance. If the conference is not an approved OST, there will be no reimbursement for travel-related expenses.

OTAC

(Board Policy – February 21, 2008)

The Board shall maintain membership in the Occupational Therapy Association of California (OTAC). The Board shall ensure representation by attending OTAC Annual Conference and other events as operationally practicable.

Chapter 9. Information

Disciplinary Actions

(Board Policy – February 21, 2008)

All final decisions by the Board following formal disciplinary proceedings of alleged violations of the Act shall be published on the Board's website after the effective date of the decision.

Conclusion

This Board Member Administrative Procedure Manual serves as reference for important laws, regulations, Department of Consumer Affairs' policies and Board policies in order to guide the actions of the Board members and ensure Board effectiveness and efficiency.

References

The procedures in this manual are specific to the Board. Suggested references for additional important information are:

Board Member Orientation and Reference Manual, DCA

Business and Professions Code, sections 103, 106, 106.5, 2570-2571, 17500

California Code of Regulations, sections 4100-4184

California Government Code, sections 1750, 11120 et seq., 11146 et seq.

State Administrative Manual, section 700 et seq.

ADOPTION OF CCR SECTIONS 4100, 4101, 4146, 4148, 4149, AND 4149.1.

Attached for review are the following:

- Notice
- Proposed-Text
- Initial Statement of Reasons

TITLE 16. CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

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

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

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

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The following regulatory changes are proposed:

- Amend CCR 4100. Definitions

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

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

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

- Amend CCR 4101. Delegation of Certain Functions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FISCAL IMPACT ESTIMATES

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

Non-discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

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

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

Impact on Jobs/New Businesses:

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

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

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

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

CONSIDERATION OF ALTERNATIVES

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

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

TEXT OF PROPOSAL AND INITIAL STATEMENT OF REASONS AND INFORMATION

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

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

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

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

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

CONTACT PERSON

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

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

The backup contact person is:

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

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

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

Specific Language

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

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

1. Section 4100 is amended to read as follows:

§ 4100. Definitions.

In addition to the definitions found in Business and Professions Code section 2570.2, the following terms are used and defined herein:
~~(a) "Certificate" means the authority granted by the board to a person to offer occupational therapy services as an occupational therapy assistant under the appropriate supervision of an occupational therapist.~~
~~(b)~~ (a) "Code" means the Business and Professions Code.
~~(c)~~ (b) "Holder" means the person to whom a license~~, certificate~~ or limited permit has been issued by the board.
~~(d)~~ (c) "License" means the authority granted by the board to a person to offer occupational therapy ~~services~~ as an occupational therapist or an occupational therapy assistant.
~~(e)~~ (d) 'Limited permit" means the authority granted by the board to a person to offer occupational therapy services under the direction and appropriate supervision of a~~n~~ licensed occupational therapist.
~~(f) "Incompetence" is the lack of possession of or the failure to exercise that degree of knowledge, learning, skill, ability, care or experience ordinarily possessed and exercised by a competent licensed professional.~~
~~(g) "Negligence" is a departure from the standard of care, which under similar circumstances, would have been ordinarily exercised by a competent licensed professional.~~
~~(h) "Gross negligence" is an extreme departure from the standard of care, which under similar circumstances, would have been ordinarily exercised by a competent licensed professional.~~
~~(i) For the purposes of denial, suspension, or revocation of a license, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of an occupational therapy practitioner, if it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license or in a manner inconsistent with the public health, safety, or welfare. Such crimes or acts include but are not limited to those involving the following:~~
~~(1) Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of or conspiring to violate any provision or term of the Occupational Therapy Practice Act.~~
~~(2) Fiscal dishonesty, theft or larceny.~~
~~(3) An incident involving controlled substances to the extent that practice is impaired or a threat to the health or safety of themselves or others~~
~~(4) Conviction of a crime involving harassment or stalking (as defined by the Penal Code).~~
~~(5) Conviction of a crime involving lewd conduct, prostitution or solicitation thereof, or pandering and/or indecent exposure (as defined by the Penal Code).~~

~~(6) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.~~
~~(7) Failure to comply with any mandatory reporting requirements.~~
~~(8) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.~~
~~(j)~~(e) "The Occupational Therapy Practice Act" or "Act" means Chapter 5.6 of Division 2, of the Business and Professions Code.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 2570, 2570.2 and 2570.5, Business and Professions Code.

2. Section 4101 is amended to read as follows:

§ 4101. Delegation of Certain Functions.

Except for those powers reserved exclusively to the "agency itself" under the Administrative Procedure Act (section 11500 et seq. of the Government Code), t~~T~~he power and discretion conferred by law upon the Board to order an examination pursuant to section 820 of the Code, receive and file accusations and statements of issues; issue notices of defense; determine the time and place of hearings under Section 11508 of the Government Code; issue subpoenas and subpoenas duces tecum; set and calendar cases for hearing and perform other functions necessary to the dispatch of the business of the Board in connection with proceedings under the provisions of Sections 11500 through 11528 of the Government Code, prior to the hearing of such proceedings, including the authority to approve a settlement agreement for revocation or surrender of a license, adoption of default decisions, or approve an interim license suspension; and the certification and delivery or mailing of copies of decisions under Section 11518 of the Government Code are hereby delegated to and conferred upon the executive officer of the Board.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 480, 2570.1, 2570.6, 2570.17, 2570.19, 2570.20, and 2570.23, Business and Professions Code and Sections 11500 et.seq., and 11415.60, Government Code.

NOTE: Article 5.5 as referenced in numbers 3- 7 below, is being added as part of rulemaking file number Z-2010-0601-03.

3. Section 4146 is added to Article 5.5, Enforcement, to read as follows:

§ 4146. Definitions.

(a) "Incompetence" is the lack of possession of or the failure to exercise that degree of knowledge, learning, skill, ability, care or experience ordinarily possessed and exercised by a competent licensed professional.
(b) "Negligence" is a departure from the standard of care, which under similar circumstances, would have been ordinarily exercised by a competent licensed professional.
(c) "Gross negligence" is an extreme departure from the standard of care, which under similar circumstances, would have been ordinarily exercised by a competent licensed professional.
(d) For the purposes of denial, suspension, or revocation of a license, a crime or act shall be considered to be "substantially related to the qualifications, functions or duties of an

occupational therapy practitioner," if it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license or in a manner inconsistent with the public health, safety, or welfare. Such crimes or acts include but are not limited to those involving the following:
(1) Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of or conspiring to violate any provision or term of the Occupational Therapy Practice Act.
(2) Fiscal dishonesty, theft or larceny.
(3) An incident involving controlled substances to the extent that practice is impaired or a threat to the health or safety of themselves or others.
(4) Conviction of a crime involving harassment or stalking (as defined by the Penal Code).
(5) Conviction of a crime involving lewd conduct, prostitution or solicitation thereof, or pandering and/or indecent exposure (as defined by the Penal Code).
(6) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.
(7) Failure to comply with any mandatory reporting requirements.
(8) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 2570, 2570.2 and 2570.5, Business and Professions Code.

4. Section 4148 is added to Article 5.5, Enforcement, to read as follows:

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

In addition to any other requirements for licensure, whenever it appears that an applicant for a license may be unable to practice occupational therapy safely because the applicant's ability to practice may be impaired due to mental illness or physical illness affecting competency, the board may require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the board. The board shall pay the full cost of such examination. An applicant's failure to comply with the requirement shall render his or her application incomplete.

The report of the evaluation shall be made available to the applicant.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 2570.6 and 2570.26, Business and Professions Code.

5. Section 4149 is added to Article 5.5, Enforcement, to read as follows:

§ 4149. Other Actions Constituting Unprofessional Conduct.

In addition to the conduct described in Section 2570.28(a) and 2570.29 of the Code, "unprofessional conduct" also includes but is not limited to the following:
(a) Including or permitting to be included any of the following provisions in an agreement to settle a civil dispute arising from the licensee's practice, whether the agreement is made before or after the filing of an action:
(1) A provision that prohibits another party to the dispute from contacting, cooperating, or filing a complaint with the board.

(2) A provision that requires another party to the dispute to withdraw a complaint the party has filed with the board.
(b) Failure to provide to the board, as directed, lawfully requested certified copies of documents within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the certified documents with this time period for good cause, including but not limited to, physical inability to access the records in the time allowed due to illness or travel. This subsection shall not apply to a licensee who does not have access to, and control over, medical records.
(c) Failure to cooperate and participate in any board investigation pending against the licensee. This subsection shall not be construed to deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privilege. This subsection shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's practice. Any exercise by a licensee of any constitutional or statutory privilege shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.
(d) Failure to report to the board within 30 days any of the following:
(1) The bringing of an indictment or information charging a felony against the licensee.
(2) The arrest of the licensee.
(3) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no contest, of any felony or misdemeanor.
(4) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.
(e) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 2570.28 and 2570.29, Business and Professions Code.

6. Section 4149.1 is added to Article 5.5, Enforcement, to read as follows:

§ 4149.1. Revocation for Sexual Contact.

Notwithstanding the disciplinary guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, which is defined as sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse, with a patient, or has committed an act or been convicted of a sex offense as defined in Section 44010 of the Education Code, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

Note: Authority cited: Section 2570.20 Business and Profession Code, and Section 11400.20, Government Code. Reference: Sections 475, 480, 481, 482, 490, 496, 2570.26, 2570.27, 2570.28, 2570.29, 2570.30, 2570.31, 2570.32, Business and Professions Code; Section 44010, Education Code; and Sections 11400.20 and 11425.50(e), Government Code.

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

INITIAL STATEMENT OF REASONS

Hearing Date: No hearing date has been requested.

Subject Matter of Proposed Regulation: Definitions, Delegation of Certain Functions, Mental or Physical Examination of Fitness for Licensure, Other Acts Constituting Unprofessional Conduct, and Revocation for Sexual Contact

Sections Affected: 4100, 4101, 4146, 4148, 4149, and 4149.1.

Introduction:

During July 2009, a series of articles appeared in the Los Angeles Times newspaper pointing out consumer protection issues and findings of egregious licensee misconduct at a specific healing arts licensing boards within the Department of Consumer Affairs (Department). The articles addressed systemic problems with how boards handled complaints, investigations, disciplinary actions, and probation monitoring.
Based on these findings, the Department held a series of meetings to address these findings. The Department also reviewed existing enforcement processes of other Department healing arts boards. The review discovered systematic problems, due to legal, procedural, and inadequate resources that limit a board's ability to investigate and act on cases in a timely manner.
The Department worked with the healing arts boards to identify areas that could be improved administratively to better coordinate the Department's enforcement objectives, improve services provided to the boards, and establish streamlined processes and procedures. The Department recognized the need for all healing arts boards to review their processes and realign consumer protection laws and regulations to ensure that consumer protection is paramount.
In response to this review, the Department launched the Consumer Protection Enforcement Initiative (CPEI) to overhaul the enforcement processes used by healing arts boards within the Department. This regulatory proposal is in response to the Department's request to implement regulations to enhance the Board's mandate of consumer protection.
Business and Professions Code (BPC) Section 2570.25 mandates that protection of the public shall be the highest priority of the California Board of Occupational Therapy (Board) in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

These proposed regulations update definitions and makes specific regulatory changes to enhance and make more efficient the Board's mandate of consumer protection.

Specific Purpose of each adoption, amendment or repeal:

Amend Section 4100 (Definitions)– This proposal would delete the definition "certificate" and moves definitions for "incompetence," "negligence," and "gross negligence" to a more appropriate section in Article 5.5, Standards Related to Denial, Discipline, and Reinstatement of Licenses.

Factual Basis/Rationale:

which is an obsolete term and adds occupational therapy assistants as those who are issued a license consistent with recent statutory changes.

Amend Section 4101 (Delegation of Certain Functions) - This proposal would delegate authority to the Executive Officer to compel a licensee to submit to a mental and/or physical examination pursuant to Business and Professions Code Section 820, accept default decisions, and approve settlement agreements for revocation, surrender, or interim suspension of a license.

Factual Basis/Rationale:
Expand this
Officer to compel a licensee to submit to a mental and/or physical examination pursuant to Business and Professions Code Section 820 to determine the licensee's fitness to practice is a necessary function
Existing law requires that the Board, itself, vote to adopt all stipulated settlement agreements proposed to be entered into by the Board's Executive Officer.

After an Accusation is filed against a licensee, the respondent has fourteen days to file a Notice of Defense. If the respondent does not file a Notice of Defense, then a Default Decision is granted. If the respondent files a Notice of Defense, the matter then moves to the Office of Administrative Hearings which schedules a pre-hearing conference and a formal hearing. A Proposed Stipulated Decision may be developed either at the pre-hearing conference or at the formal hearing. Additionally, the respondent may also elect to voluntarily surrender their license via a Stipulated Settlement.

Under existing law, the Executive Officer has the obligation to pursue administrative action against a licensee who has violated the law. Ultimately it is the Board that votes on all proposed decisions, including stipulated settlements and default decisions. This proposal would delegate to the Board's Executive Officer the authority to approve settlement agreements (stipulated decisions) for revocation or surrender of a license, adopt default decisions, or issue interim suspension of a license and the power and discretion to order an examination pursuant to section 820 of the Code.

Because the respondent has failed to respond to the Accusation, agreed to a Stipulated Settlement, or agreed to surrender their license, there is little discretion for the Board to exercise in those situations.

Authorizing the Board's Executive Officer to accept Default Decisions and approve Stipulated Settlements resulting in revocation, surrender of a license, or interim suspension will allow the Board to focus on more pressing disciplinary matters and will shorten the timeline for Default Decisions or Stipulated Surrender cases to take effect, thus adding to consumer protection by allowing the orders to become effective in a more timely manner.

Add Section 4146 (Definitions) - This proposal relocates terms originally found in Section CCR 4100, Article 1, to Section CCR 4146, Article 5.5, Standards Related to Denial, Discipline, and Reinstatement of Licenses. This proposal would support the Board's mandate to protect consumers by defining the terms "incompetence," "negligence," and "gross negligence" as they relate to unprofessional conduct. This proposal clarifies the grounds for disciplinary action by specifying which criminal acts are substantially related to the qualifications, functions, or duties of an applicant or licensee.

Factual Basis/Rationale:
. ***Expand this***

Add Section 4148 (Mental or Physical Examination of Fitness for Licensure) - This proposal would authorize the Board to order an applicant for licensure to submit to an examination if it appears that the applicant may be unable to safely perform the duties and functions of an occupational therapist or occupational therapy assistant, due to physical or mental illness affecting competency. The Board may deny the application if, after receiving the evaluation report, the Board determines that the applicant is unable to practice safely,

Factual Basis/Rationale:
This proposal would authorize the Board to compel an applicant for licensure to submit to physical or mental examinations to assist the Board in determining an applicant's fitness for licensure. The proposal would also permit the Board to deny the application if the applicant is unable to safely practice, based on the review of the evaluation report.
Pursuant to BPC Section 820, the Board can compel a licensee to submit to a physical or mental examination when the licensee's fitness to practice is compromised based on suspected physical or mental illness, however, this authority does not apply to applicants for licensure. This is an additional enforcement tool that would enhance the Board's mandate to protect the public given the potential harm presented by applicants who may have physical or mental illness that would impact their ability to practice safely.

Add Section 4149 (Other Actions Constituting Unprofessional Conduct) – Existing law, BPC Sections 2570.28(a) and 2570.29, sets forth acts constituting unprofessional conduct. This proposal expands and identifies additional acts considered "unprofessional conduct."

Factual Basis/Rationale:
4149(a)- In addition to the conduct described in Business and Professions Code section 2570.28(a) and 2570.29, this proposal would define, as Unprofessional Conduct, including or permitting to be included in an agreement to settle a civil dispute arising from the licensee's practice prohibit the party from contacting, cooperating or filing a complaint with the Board or requiring another party to withdraw a complaint the party has filed with the board.

Prohibiting a party from contacting, cooperating with, or filing complaint with the Board denies consumers the right to file complaints and prevents the Board from investigating and disciplining licensees. These licensees may continue to practice and potentially harm the public because the Board is not aware of the civil dispute or its settlement. This proposal would prevent licensees who have violated the law from avoiding disciplinary action against their licenses.

4149(b) – A licensee's failure to timely provide the Board with requested documents delays the Board's investigation of consumer complaints. The obtaining and inspection of documents is crucial in investigating consumer complaints and taking appropriate action against a licensee who may cause patient harm.

Patient medical records can only be obtained under two circumstances: 1) the patient has given written authorization for release of the records to the Board; and 2) the Board or the Attorney General has issued a subpoena mandating the release of the records. Failure of a licensee to provide lawfully requested documents also would
Because licensees committing acts of sexual abuse or misconduct pose a potential threat to consumers, this proposal would also include as "Unprofessional Conduct" the commission of any act of sexual abuse or misconduct.

Also defined as "Unprofessional Conduct" is the failure to cooperate and participate in any Board investigation pending against the licensee. Again, failure of the licensee to cooperate with the Board in an investigation further erodes the Board's mandate of consumer protection. This proposal would not, however, deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution or other constitutional or statutory privileges. Additionally, this proposal would not require the licensee to cooperate with a request that would require them to waive any constitutional or statutory privilege.

4149(d) - A licensee's failure to report to the Board the bringing of an indictment or information charging a felony, an arrest, conviction of a crime; any disciplinary action taken against another licensing entity; or failure or refusal to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the Board compromises the board's ability to fulfill is consumer protection mandate.

As part of the licensing process, all applicants are fingerprinted for purposes of conducting criminal history record checks through the California Department of Justice (DOJ) and Federal Bureau of Investigation (FBI). In most cases, the Board receives

subsequent arrest notifications for licensees convicted of crimes. The Board, however, may not always be made aware of convictions or other court actions. Additionally, other agencies may not be required to report actions nor be aware that the individual has a license in California.

By requiring licensees to report this information, the Board gains an additional enforcement tool so that a determination may be made to pursue disciplinary action against the licensee, as appropriate.

Section 4149.1-Revocation for Sexual Contact

This proposal would also require that in specific cases of a licensee having sexual contact with a patient or any finding that a licensee has committed a sex offense, or been convicted of a sex offense, a proposed decision would contain an order revoking the license. The proposed order could not contain an order staying the revocation of the license.

Factual Basis/Rationale
Factual basis for determination that each proposed change is necessary:
Specific changes:

6. Add section 4149.1. Revocation for Sexual Conduct.
Existing regulations allow that when reaching a decision on a disciplinary action under the Administrative Procedures Act, the Board shall consider the "California Board of Occupational Therapy Disciplinary Guidelines." Deviation from the guidelines and orders, including standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of a particular case warrant such deviation. This proposal would require that proposed decisions in any disciplinary matter where there is a finding that the licensee engaged in sexual misconduct, which is defined as sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse with a patient. A finding that the licensee committed a sex offense against any person regardless of whether the licensee was convicted for the same, or was convicted of a sex offense automatically order the penalty of revocation. The Board will still have the power to non-adopt proposed decisions.
Because of the seriousness of sex offense and sexual misconduct, and the potential threat to consumers that sex offenders pose, this proposal would establish proposed decisions that have an automatic penalty of revocation in any licensee engaged in sexual misconduct.

Underlying Data

Technical, theoretical or empirical studies or reports relied upon (if any): None.

Business Impact

This regulation will not have a significant adverse economic impact on businesses because it only impacts occupational therapists and occupational therapy.

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

Consideration of Alternatives
No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.
Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Not adopt the regulations. This alternative was rejected because the Board has identified areas of concern regarding enhanced protection of consumers
2. Adopt regulations. The Board determined that this alternative is the most feasible because it will assist the Board in its mandate of consumer protection.

The proposed amendments to "Article 1.General Provisions" of CCR Section 4100 will clarify specified terms used in the regulations of the board. The term "certificate" is a synonym for the term "license". Section 4100(a) is deleted to eliminate redundancy. The term "certificate" in Section 4100(c) is deleted for the same reason. Subsections 4100(b), (c), (d) and (e) have been renumbered for internal consistency.

CCR 4100(f), (g), (h), (i) and (j):

The proposed amendments delete these subsections from CCR 4100. This deleted language is renumbered to Section "4146. Definitions" and is placed in the recently added "Article 5.5 Enforcement."

CCR 4101:

The proposed amendment to CCR 4101 adds language to clarify powers of the executive officer of the Board and authorizes specified individuals to exercise these powers in the absence of the executive officer relating to disciplinary proceedings. The express power to approve settlements agreement for revocation of a license, or approve interim license suspensions spells out and clarifies which powers are delegated. This amendment removes ambiguity or confusion and would reduce delay in the final disposition of enforcement actions.

"Article 1.General Provisions" are regulations of an administrative nature and do not specify grounds for any type of disciplinary proceedings, whereas "Article 5. Citations" and "Article 5.5. Enforcement" specifically relate to disciplinary matters.

CCR 4146. Definitions:

The language proposed to be deleted from CCR 4100(f), (g), (h), (i) and (j) is renumbered and relocated under "Article 5.5. Enforcement." The regulatory language of CCR 4146 already exists. This amendment makes no changes to current law.

CCR 4148. Mental or Physical Examination of Fitness for Licensure

Existing law requires the board to determine whether a licensee is competent to practice occupational therapy. BPC Section 820 permits the board to require the licensee to be examined by one or more physicians and surgeons to determine whether either mental or physical impairment would prevent the licensee from practicing occupational therapy safely. This amendment will adopt, in regulation form, existing BPC 820 to facilitate a speedy and just resolution to pending complaints alleging that the licensee is unfit to practice.

CCR 4149. Other Action Constituting Unprofessional Conduct

Existing law identifies specific conduct as grounds for administrative disciplinary actions. For legal disputes other than administrative licensure disciplinary proceedings, civil and criminal law provide statutory rules of procedure, establish deadlines and impose sanctions to attempt to keep the case from being delayed, due to failure to meet deadlines, provide required discovery and refusal to participate in the legal process by either side.

The proposed CCR 4149 defines additional grounds constituting unprofessional conduct. This conduct includes refusal to cooperate with investigations conducted by the board, failure to provide records and other required documents and past acts which constitute the commission of crimes. The purpose of this amendment is to ensure that the licensee has full notice and disclosure of rights, responsibilities and additional penalties concerning a disciplinary licensing actions conducted by the board. No express remedies have been available to the board when a licensee either deliberately or negligently engages in acts or omissions which can unreasonably delay pending disciplinary proceedings. Speedy resolution of disciplinary proceedings will benefit both the healthcare consuming public and accused licensees

CCR 4149.1. Revocation for Sexual Conduct

Existing law requires at the conclusion of an administrative law disciplinary proceeding, the administrative law judge prepares a proposed decision as required by the Government Code. The adoption of CCR 4149.1 provides that if the proposed decision contains any findings that the licensee engaged any act of sexual contact, defined as sexual intercourse or the touching of an intimate part of the patient for the purpose of sexual arousal, gratification or abuse with a patient, or finds that the licensee has been convicted of any of the enumerated sex offenses found in Education Code Section 44010, the proposed decision shall contain an order revoking the license, and shall not contain an order staying the revocation thereof.

The purpose of this amendment is to revoke the license of a person who has either been convicted of specified sexual crimes, or has engaged in acts which

constitute sexual crimes, to protect the healthcare consuming public. This amendment also prohibits the administrative law judge from entering an order staying the license revocation. The finding that the licensee has engaged in the prohibited sexual conduct does not require that the prior sexual conduct be directly related to the disciplinary action which was the basis for the original disciplinary action.

The above proposed regulatory actions are intended to:

- Clarify the terminology in CCR 4100. Definitions by reducing redundancy by eliminating the confusing term "Certificate";
- Clarifying that the term "licensee" refers not only to licensed occupational therapists, but also "occupational assistants";
- Clarifying and specifying that delegated authority expressly includes the approval of settlement agreements for surrender or revocation of a license or approve interim license suspensions;
- Clarifying CCR 4100 by deleting Subsections 4100(f), (g), (h), (i) and (j) and renumbering them to a new "Section 4146. Definitions as CCR 4146(a), (b), (c) and (d) and relocated under "Article 5.5. Enforcement."
- Clarifying and specifying that the board may require an applicant for licensure to be examined by physicians and surgeons or psychologists the determine whether a specific applicant is mentally of physically fit for licensure;
- Clarify and facilitate the speedy protection of the public by defining additional unprofessional conduct arising from non-cooperation of the licensee with the board during pending disciplinary proceeding, to minimize delays;
- Specify that a proposed decision issued by an administrative law judge that contains a finding of past identified sexual conduct must also contain a license revocation order and must not contain a stay order for the revocation.

FACTUAL BASIS/NECESSITY:

It has been the experience of the board that while there are substantive enforcement guidelines and regulations to protect the public, problems relating to the administration of disciplinary proceedings have caused unconscionable delays resulting from the actions of uncooperative citees. The proposed amendments to the regulations of the board will identify and define unprofessional conduct of citees, relating to obstruction of disciplinary proceedings, as separate, distinct and additional grounds for licensure discipline, not heretofore identified. These amendments will aid in reducing the elapsed time for concluding disciplinary actions, and clarify important aspects of the prosecution of enforcement issues involving licensing.

All of these proposed regulatory changes are to protect the healthcare consuming public.

UNDERLYING DATA:

The State Department of Consumer Affairs and the Board of Occupational Therapy are attempting to reduce the processing time for disciplinary actions for healthcare boards. Recalcitrant and non-cooperative citees have been able to delay

enforcement proceedings without consequences. These regulatory amendments to will provide additional sanctions to speed up the process of identifying and removing licensees who harm the public. Data is anecdotal.

BUSINESS IMPACT:

This regulation will not have a significant adverse economic impact on business. The proposed regulation will only affect occupation therapy licensees and their patients.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

These regulations do not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES

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

ADOPTION OF CCR SECTIONS 4116, 4117, 4118, AND 4119.

Attached for review are the following:

- Notice
- Proposed-Text
- Initial Statement of Reasons
- Sponsoring Entity Application
- Out-of-State licensee Application

TITLE 16. CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

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

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

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

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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

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

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

The CBOT is hereby incorporating by reference the following forms:

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

FISCAL IMPACT ESTIMATES

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

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

Local Mandate: None.

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

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

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

Impact on Jobs/New Businesses:

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

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

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

EFFECT ON HOUSING COSTS: None

EFFECT ON SMALL BUSINESS:

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

CONSIDERATION OF ALTERNATIVES:

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

TEXT OF PROPOSAL AND INITIAL STATEMENT OF REASONS AND INFORMATION:

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

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

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

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

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

CONTACT PERSON:

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

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

The backup contact person is:

Heather Martin

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

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

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

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

Article 2.1.

Sponsored Free Health Care Events—Requirements for Exemption.

§4116. Definitions.

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

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

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

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

§4117. Sponsoring Entity Registration and Recordkeeping Requirements.

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

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

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

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

NOTICE

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

For more information:

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

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

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

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

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

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

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

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

(c) Denial of Request for Authorization to Participate.

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

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

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

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

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

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

The term "good standing" means the applicant:

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

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

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

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

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

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

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

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

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

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

§ 4119. Termination of Authorization and Appeal.

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

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

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

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

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

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

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

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

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

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

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Sponsored Free Health Care Events

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

Introduction

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

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

Specific Purpose of each adoption, amendment, or repeal:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Business Impact

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

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

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

N/A

Specific Technologies or Equipment

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

Consideration of Alternatives

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

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

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.
BOARD OF OCCUPATIONAL THERAPY
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SPONSORED FREE HEALTH CARE EVENTS

REGISTRATION OF SPONSORING ENTITY UNDER BUSINESS & PROFESSIONS CODE SECTION 901

In accordance with California Business and Professions Code Section 901(d), a non-government organization administering an event to provide health care services to uninsured and underinsured individuals at no cost may include participation by certain health care practitioners licensed outside of California if the organization registers with the California licensing authorities having jurisdiction over those professions. This form shall be completed and submitted by the sponsoring organization **at least 60 calendar days prior to the sponsored event**. *Note that the information required by Business and Professions Code Section 901(d) must also be provided to the county health department having jurisdiction in each county in which the sponsored event will take place.*

[Only one form (per event) should be completed and submitted to the Department of Consumer Affairs. The Department of Consumer Affairs will forward a copy of the completed registration form to each of the licensing authorities indicated on this form.]

PART 1 – ORGANIZATIONAL INFORMATION

1. Organization Name: _____

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

Address Line 1	Phone Number of Principal Office
Address Line 2	Alternate Phone
City, State, Zip	Website
County	

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

Address Line 1	Phone Number
Address Line 2	Alternate Phone
City, State, Zip	
County	

3. Type of Organization:

Is the organization operating pursuant to Section 501(c)(3) of the Internal Revenue Code?

____ Yes ____ No

If not, is the organization a community-based organization*?

____ Yes ____ No

Organization's Tax Identification Number _____

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

_____

_____

_____

_____

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

PART 2 – RESPONSIBLE ORGANIZATION OFFICIALS

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

Individual 1:

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

Individual 2:

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

Individual 3:

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

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

PART 3 – EVENT DETAILS

1. Name of event, if any: _____

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

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

_____
_____
_____

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

_____
_____
_____
_____
_____

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

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

6. Please check each licensing authority that will have jurisdiction over an out-of-state licensed health practitioner who intends to participate in the event:

___ Acupuncture Board
___ Board of Behavioral Sciences
___ Board of Chiropractic Examiners
___ Dental Board
___ Dental Hygiene Committee
___ Physician Assistant Committee
___ Physical Therapy Board
___ Board of Podiatric Medicine
___ Board of Psychology
___ Board of Registered Nursing

___ Medical Board
___ Naturopathic Medicine Committee
___ Board of Occupational Therapy
___ Board of Optometry
___ Osteopathic Medical Board
___ Board of Pharmacy
___ Respiratory Care Board
___ Speech-Language Pathology, Audiology & Hearing Aid Dispensers Board
___ Veterinary Medical Board
___ Board of Vocational Nursing & Psychiatric Technicians

Note:

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

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

Attn: Department of Consumer Affairs
Sponsored Free Health Care Events
1625 North Market Blvd.
Sacramento, CA 95834

- I understand the recordkeeping requirements imposed by California Business and Professions Code Section 901 and Title 16, California Code of Regulations Section 4117.

- I understand that our organization must file a report with each applicable board/committee within fifteen (15) calendar days of the completion of the event.

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

_____ Name Printed

_____ Title

_____ Signature

_____ Date

STATE OF CALIFORNIA
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REQUEST FOR AUTHORIZATION TO PRACTICE WITHOUT A CALIFORNIA LICENSE AT A REGISTERED FREE HEALTH CARE EVENT

In accordance with California Business and Professions Code Section 901 any occupational therapist or occupational therapy assistant licensed/certified/registered and in good standing in another state, district, or territory in the United States may request authorization from the California Board of Occupational Therapy (Board) to participate in a free health care event offered by a sponsoring entity, registered with the Board pursuant to Section 901, for a period not to exceed ten (10) days.

PART 1 - APPLICATION INSTRUCTIONS

An application must be complete and must be accompanied by all of the following:

- A processing fee of $50, made payable to CBOT.
- A copy of each valid and current license, certificate or registration authorizing the applicant to engage in the practice of occupational therapy issued by any state, district, or territory of the United States.
- A copy of a valid photo identification of the applicant issued by one of the jurisdictions in which the applicant holds a license or certificate to practice.
- A completed fingerprint card or Request for Live Scan Service form. This will be used to establish your identity and to conduct a criminal history record check. The applicant shall pay any costs for furnishing the fingerprints and conducting the criminal history record check. (This requirement shall apply only to the first application for authorization that you submit.)
- Examination score report or verification of registration/certification by the National Board for Certification in Occupational Therapy (or its predecessor organization).

The Board will not grant authorization until this form has been completed in its entirety, all required enclosures have been received by the board, and any additional information requested by the Board has been provided by the applicant and reviewed by the Board, and a determination made to grant authorization.

The Board shall process this request and notify the sponsoring entity listed in this form if the request is approved or denied within 20 calendar days of receipt. If the Board requires additional or clarifying information, the Board will contact you directly, but **written approval or denial of requests will be provided directly to the sponsoring entity**. It is the applicant's responsibility to maintain contact with the sponsoring entity.

PART 2 – NAME AND CONTACT INFORMATION

1. Applicant Name: _____
First Middle Last

2. Social Security Number: ____ - ___ - _____ Date of Birth: _____

3. Applicant's Contact Information:

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

4. Applicant's Employer : _____

Employer's Contact Information:

Address Line 1	Phone
Address Line 2	Facsimile
City, State, Zip	E-mail address (if available)

PART 3 – LICENSURE INFORMATION

1. Do you hold a current license, certification, or registration issued by a state, district, or territory of the United States authorizing the unrestricted practice of occupational therapy in your jurisdiction(s)?

No ☐ If no, you are not eligible to participate as an out-of-state practitioner in the sponsored event.

Yes ☐ If yes, list every license, certificate, and registration authorizing you to engage in the practice of [profession] in the following table. If there are not enough boxes to include all the relevant information please attach an addendum to this form. Please also attach a copy of each of your current licenses, certificates, and registrations.

State/ Jurisdiction	Issuing Agency/ Authority	License Number	Expiration Date

2. Have you ever had any license, certification, or registration to practice revoked, suspended, sanctioned or subject to any disciplinary action or proceeding by a licensing body or regulatory agency?

___ Yes ___ No

3. Have you ever been convicted of or pled guilty or nolo contendere to any misdemeanor or felony? (Please note: convictions must be disclosed whether or not the conviction has been dismissed.)
___ Yes ___ No

4. If you answered "Yes" to any of questions 2-3, please explain (*attach additional page(s) if necessary*): _____

_____

_____

_____

_____

_____

_____

_____

PART 4 – SPONSORED EVENT

1. Name of non-profit or community-based organization hosting the free healthcare event (the "sponsoring entity"):

_____

2. Name of event: _____

3. Date(s) & location(s) of the event: _____

_____

4. Date(s) & location(s) applicant will be performing healthcare services (if different):

_____

_____

5. Please specify the healthcare services you intend to provide: _____

_____

_____

6. Name and phone number of contact person with sponsoring entity:

_____

_____

PART 5 – ACKNOWLEDGMENT/CERTIFICATION

I, the undersigned, declare under penalty of perjury under the laws of the State of California and acknowledge that:

- I have not committed any act or been convicted of a crime constituting grounds for denial of licensure by the Board.
- I am in good standing with the licensing authority or authorities of all jurisdictions in which I hold licensure and/or certification to practice [profession].
- I will comply with all applicable practice requirements required of licensed [profession]s and all regulations of the Board.
- In accordance with Business and Professions Code Section 901(i), I will only practice within the scope of practice for California-licensed occupational therapists and occupational therapy assistants.
- I will provide the services authorized by this request and Business and Professions Code Section 901 to uninsured and underinsured persons only and shall receive no compensation for such services.
- I will provide the services authorized by this request and Business and Professions Code Section 901 only in association with the sponsoring entity listed herein and only on the dates and at the locations listed herein for a period not to exceed 10 calendar days.
- I am responsible for knowing and complying with California law and practice standards while participating in a sponsored event located in California.
- Practice of a regulated profession in California without proper licensure and/or authorization may subject me to potential administrative, civil and/or criminal penalties.
- The Board may notify the licensing authority of my home jurisdiction and/or other appropriate law enforcement authorities of any potential grounds for discipline associated with my participation in the sponsored event.
- All information provided by me in this application is true and complete to the best of my knowledge. By submitting this application and signing below, I am granting permission to the Board to verify the information provided and to perform any investigation pertaining to the information I have provided as the Board deems necessary.

Name: _____
Printed

_____ _____
Signature Date

ADOPTION OF CCR SECTION 4155.

Attached for review are the following:

- Notice
- Proposed-Text
- Initial Statement of Reasons
- Application

TITLE 16. CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

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

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

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

Authority and Reference: Pursuant to the authority vested by sections 2570.3 and 2570.20 of the Business and Professions Code (BPC), and to implement, interpret or make specific sections 2570.2 and 2570.3, the Board is proposing to revise Division 39, Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CBOT proposes to amend Section 4155 of Article 6 of Division 39 of Title 16 of the California Code Regulations. Existing Section 4155(a)(2) requires occupational therapists who seek approval to provide advanced practice services in physical agent modalities to submit an application, Form APP, Rev 10/09 to the CBOT. The proposal contained herein seeks to establish that a new revised application would be required to be submitted by striking reference to Form APP, Rev 10/09, and replacing it with, APP, Rev 07/11, which is incorporated by reference. Recent regulatory changes that became operative May 28, 2011, no longer require a therapist to submit a statement of learning as part of their application for advanced practice approval. The new revised application (APP, Rev 07/11) deletes instruction and reference for therapists to provide a statement of learning as part of the application.

Document Incorporated by Reference: Application for Advanced Practice Approval in Physical Agent Modalities (Form APP, Rev 07/11).

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: Minor.

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

Local Mandate: None.

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

Business Impact: The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above Determination: None.

Impact on Jobs/New Businesses:

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

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

There is no impact on private business or representative private persons, except to clarify licensee representations that demonstrate professional qualifications of occupational therapy practitioner(s) to be in a manner inconsistent with the public health, safety or welfare. The only impact on private business or representative private persons is beneficial.

EFFECT ON HOUSING COSTS: None

EFFECT ON SMALL BUSINESS:

The Board has determined that the proposed regulation has no effect on small business. Current regulations require the submission of an application to seek Board approval to provide these services. The proposed regulation contained herein merely establishes and specifies that a newly revised application will be required to be submitted.

CONSIDERATION OF ALTERNATIVES:

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

TEXT OF PROPOSAL AND INITIAL STATEMENT OF REASONS AND INFORMATION:

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

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

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

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

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

CONTACT PERSON:

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

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

The backup contact person is:

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

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

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY REGULATIONS
PROPOSED AMENDED REGULATORY LANGUAGE
Title 16, Division 39, California Code of Regulations
Section 4155

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

§ 4155. Application for Approval in Advanced Practice Areas.

In order to provide the advanced practice services set forth in Code section 2570.3(d), an occupational therapist shall apply to the Board and receive approval in that advanced practice area.
(a) To apply for approval, an occupational therapist shall submit to the Board, an application as specified in subsections (1), (2) or (3), along with the required documentation.
(1) Applicants seeking approval in the area of Hand Therapy shall submit the Application for Advanced Practice Approval in Hand Therapy (Form APH, Rev 10/09), hereby incorporated by reference;
(2) Applicants seeking approval in the use of physical agent modalities, shall submit the Application for Advanced Practice Approval in Physical Agent Modalities (Form APP, Rev ~~10/09~~ 07/11), hereby incorporated by reference;
(3) Applicants seeking approval in the area of Swallowing Assessment, Evaluation, or Intervention, shall submit the Application for Advanced Practice Approval in Swallowing (Form APS, Rev 10/09), hereby incorporated by reference;
(b) The documentation must include the following:
(1) Documented proof of attendance and completion of each course (i.e., certificate of completion or transcript).
(2) Evidence of the number of contact hours completed for each course for courses that are not Board approved.
(3) Outline or syllabus of each course for courses that are not Board approved.
(4) Information describing, in detail, the depth and breadth of the content covered (e.g., a course syllabus and the goals and objectives of the course) as it relates to the advanced practice area.
(5) Resume or credentials of each instructor for courses that are not Board approved.
(6) Verification of completion of supervised on-the-job training, clinical internship or affiliation reflecting the nature of the training and the number of hours. Such verification must be signed by the supervisor(s) under penalty of perjury.
(c) An advanced practice application not completed within six months of receipt or notification of deficiency, whichever is later, shall be deemed abandoned.
(d) An application submitted subsequent to the abandonment of a previous application shall be treated as a new application.

Note: Authority cited: Sections 2570.3 and 2570.20 Business and Professions Code. Reference: Sections 2570.2 and 2570.3, Business and Professions Code.

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Advanced Practice Application for use of Physical Agent Modalities

Section Affected: Title 16, Division 39, California Code of Regulations, Section 4155.

SPECIFIC PURPOSE OF THE REGULATIONS:

Existing law, Business and Professions Code Division 2, Healing Arts, Chapter 5.6, Sections 2570 et. seq. delineates the requirements for the licensing and regulation of occupational therapy practice in the State of California. Section 2570.3(d) allows an occupational therapist to provide advanced practice services if the therapist has the knowledge, skill, and ability to do so and has demonstrated to the satisfaction of the Board that he or she has met the educational training and competency requirements.

The proposed regulatory action is intended to amend, establish, and clarify, California Code of Regulations Section 4155 in regard to the application that must be submitted for occupational therapists seeking approval to provide advanced practice services in physical agent modalities.

FACTUAL BASIS/NECESSITY:

Section 4155(a)(2) requires an occupational therapist who wishes to seek Board approval to use physical agent modalities in their practice to submit an application to the Board. Recent regulatory amendments no longer require the submission of a statement of learning as part of the application. The Board has revised the application eliminating the statement of learning component to be consistent with current regulations. The proposed regulatory change would establish that a new revised application (Form APP, Rev 07/11) which is incorporated by reference would be required to be submitted for therapists seeking Board approval to use physical agent modalities.

UNDERLYING DATA:

None

BUSINESS IMPACT:

This regulation will not have a significant adverse economic impact on business.

SPECIFIC TECHNOLOGIES OR EQUIPMENT:

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

CONSIDERATION OF ALTERNATIVES:

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

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR

BOARD OF OCCUPATIONAL THERAPY
2005 Evergreen Street, Suite 2050, Sacramento, CA 95815
T: (916) 263-2294 F: (916) 263-2701
E-mail: cbot@dca.ca.gov Web: www.bot.ca.gov

APPLICATION FOR ADVANCED PRACTICE APPROVAL – *PHYSICAL AGENT MODALITIES*

(Please read the *Information and Instruction Sheet* before completing the application. Print clearly or type all information.)

DRAFT

Section I: Personal Data (Please Complete All Boxes)

A. Last Name		B. First Name		C. Middle Name
D. Residence Address (Street No., Apt No.)		City	State	Zip Code
E. OT License No.	F. Home Telephone No. ( )	G. Business Telephone No. ( )	H. E-Mail Address	
I. Current Employer		J. Supervisor First Name	K. Supervisor Last Name	

Section II: Affidavit

I hereby declare that I am the person named in this application and that I have read the complete application and know the contents thereof. **I declare, under penalty of perjury of the laws of the State of California, that all of the information contained herein and evidence or other credentials submitted herewith are true and correct.** I understand that falsification or misrepresentation of any item or response on this application or any attachment hereto, is sufficient grounds for denial, suspension or revocation of a license to practice as an occupational therapist in the State of California.

Signature of Applicant _____ Date _____

Information Collection and Access – The Board's executive officer is the person responsible for information maintenance. Business and Professions Code section 2570.18 gives the Board authority to maintain information. All information is mandatory. Failure to provide any mandatory information will result in the application being rejected as incomplete. The information provided will be used to determine qualification for advanced practice approval. Each individual has the right to review his or her file maintained by the agency subject to the provisions of the California Public Records Act.

Approval in an advanced practice area demonstrates entry-level competency in the area approved. Approval does not represent expertise in this area and should not be misrepresented as such. Pursuant to Title 16, California Code of Regulations, Section 4170(f)(1) of the Ethical Standards of Practice, occupational therapists are required to accurately represent their credentials, qualifications, education, experience, training, and competency. Further, Section 4170(d) states that occupational therapists shall perform services only when they are qualified by education, training, and experience to do so.

Section III: POST PROFESSIONAL EDUCATION AND TRAINING SUMMARY SHEET – PHYSICAL AGENT MODALITIES:

PHYSICAL AGENT MODALITIES EDUCATION (Minimum of 30 Contact Hours Required*):

# of Hours:	Course Title:
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	Total Contact Hours

PHYSICAL AGENT MODALITIES TRAINING (Minimum of 60 Supervised Hours Required*):

# of Hours:	Name of Facility:
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	Total Supervised Hours

* Eight (8) hours of education and sixty (60) hours of supervised on the job training in physical agent modalities can be applied towards meeting the education and training requirements for hand therapy. No other courses or hours can count for advanced practice approval in both hand therapy and physical agent modalities.

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Section IV: Post-Professional Education (Copy this form and use a separate form for each course submitted.)

Name of Course: _____

Number of Contact Hours: _____

Name of Course Provider: _____

Date Completed: _____

(Course(s) must have been taken within the 5 years immediately preceding your application for approval. A Copy of Certificate of Completion must be attached for each course.)

Required content areas – Please indicate the areas covered by the above-named course:

- ☐ Anatomy and physiology of muscle, sensory, vascular, and connective tissue in response to the application of physical agent modalities.
- ☐ Principles of chemistry and physics related to the selected modality.
- ☐ Physiological, neurophysiological, and electrophysiological changes that occur as a result of the application of a modality.
- ☐ Guidelines for the preparation of the patient, including education about the process and possible outcomes of treatment.
- ☐ Safety rules and precautions related to the selected modality.
- ☐ Methods for documenting immediate and long-term effects of treatment.
- ☐ Characteristics of the equipment, including safe operation, adjustment, indications of malfunction, and care.

A Copy of Certificate of Completion must be attached for each course.

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Section V: Post-Professional Training (Copy this form and use a separate form for each training and/or affiliation.)

NOTE TO SUPERVISOR: You are being asked to provide information for an OT seeking approval to provide physical agent modalities. Please complete this form and return it to the OT so that it can be included in his/her application packet.

This training represents _____ hours of experience in ***physical agent modalities*** *acquired* between _____(month/day/year) and _____ (month/day/year).

Supervisor's Name: _____
First Last

License Type/Number: _____ Supervisor's Phone #: _____
e.g., OT, PT, MD

Name and Address of Facility
Where Training Occurred: _____

_____

Is _____ competent in providing physical agent modalities?
OT applicant's name

☐ YES, competence has been demonstrated in the area of physical agent modalities.
☐ NO, competence has not been demonstrated in the area of physical agent modalities.

Please identify the knowledge, skills and abilities demonstrated by the OT:

_____

_____

_____

_____

_____

By signing below, YOU certify that you were the clinical supervisor for training hours noted above and that the timeframes and hours listed are true and correct.

Supervisor's Signature: _____ Date: _____

Note to Supervisor:

- **Until the Board approves this applicant, you have continuing supervisory responsibility *even if the "training" period has ended,* IF the OT is providing hand therapy and you are both employed at the location named above.**

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ENFORCEMENT DATE AND REPORTS.

Attached are the following:

- Citations issued date for the periods 1/1 - 3/31/2011 and 4/1 – 6/30/2011.
- Enforcement Statistical reports for the periods 1/1 - 3/31/2011 and 4/1 – 6/30/2011.

CITATIONS ISSUED
1/1/2011-3/31/11

#	LICENSURE 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	DUE DATES		Appeal Rcvd		PAYMENT			
	OT	OTA	No Lic	FDC	UPC	CC	ULP	PDU	AD									Req For Conf.	Fine	ICR	ADMIN	Pymnt Date	Pymnt Amnt	Bal (OT)	Bal (OTA)
1		1							1	OA 2010-151				$50		$50	12/02/10	01/02/11	01/02/11			05/19/11	$50		$0
1	1								1	OT 2010-136	$50		$50				12/02/10	01/02/11	01/02/11					$50	
1	1								1	OT 2010-167	$50		$50				12/02/10	01/01/11	01/01/11			12/27/10	$50	$0	
1		1							1	OT 2010-141				$50		$50	12/02/10	01/01/11	01/01/11						$50
1	1								1	OT 2010-140	$50	$50	$0				12/07/10	1/6/2011	01/06/11		WITHDRAWN			$0	
1	1								1	OT 2010-168	$50		$50				12/08/10	01/07/11	01/07/11			01/03/11	$50	$0	
1	1						1			OT 2010-89	$600		$600				12/09/10	01/07/11	01/07/11			12/27/10	$600	$0	
1	1								1	OT 2010-135	$50		$50				12/09/10	01/08/11	01/08/11			12/21/10	$50	$0	
1		1							1	OA 2010-142				$50		$50	12/09/10	01/09/11	01/09/11			12/21/10	$50		$0
1	1								1	OT 2010-145	$50		$50				12/09/10	01/09/11	01/09/11			02/09/11	$50	$0	
1	1								1	OT 2010-160	$50		$50				12/13/10	01/13/11	01/13/11					$50	
1	1								1	OT 2010-169	$50		$50				12/13/10	01/13/11	01/13/11			05/19/11	$50	$0	
1		1							1	OA 2010-164				$50		$50	12/13/10	01/12/11	01/12/11						$50
1	1								1	OT 2010-162	$50	$50	$0				12/13/10	01/12/11	1/12/11	1	1	DISMISSED		$0	
1	1						1			OT 2009-239	$800		$800				12/14/10	01/13/11	01/13/11			01/25/11	$800	$0	
1	1								1	OT 2010-144	$50		$50				12/15/10	01/14/11	01/14/11					$50	
1	1						1		1	OT 2009-149	$200		$200				12/15/10	01/14/11	01/14/11	1		03/09/11	$200	$0	
1	1								1	OT 2010-165	$50		$50				12/27/10	01/26/11	01/26/11					$50	
1	1								1	OT 2010-213	$50		$50				01/04/11	02/03/11	02/03/11			01/26/11	$50	$0	
1		1							1	OA 2010-158				$50		$50	04/13/11	05/13/11	05/13/11						$50
1	1								1	OT 2010-216	$100		$100				01/05/11	02/04/11	02/04/11			02/04/11	$100	$0	
1	1								1	OT 2010-209	$100		$100				01/05/11	02/04/11	02/04/11			01/12/11	$100	$0	
1	1								1	OT 2010-212	$50		$50				01/05/11	02/04/11	02/04/11			01/28/11	$50	$0	
1	1								1	OT 2010-224	$50		$50				01/07/11	02/06/11	02/06/11			01/31/11	$50	$0	
1	1								1	OT 2010-225	$50		$50				01/07/11	02/06/11	03/22/11	1		03/01/11	$50	$0	
1	1								1	OT 2010-226	$50		$50				01/07/11	02/06/11	02/06/11			05/24/11	$50	$0	
1	1								1	OT 2010-227	$50		$50				01/07/11	02/06/11	02/06/11			01/18/11	$50	$0	
1	1								1	OT 2010-229	$50		$50				01/12/11	2/11/11/	02/11/11	1		02/28/11	$50	$0	
1	1								1	OT 2010-233	$50		$50				01/12/11	02/11/11	02/11/11			02/24/11	$50	$0	
1	1								1	OT 2010-230	$50		$50				01/12/11	02/11/11	02/11/11			01/21/11	$50	$0	
1	1								1	OT 2010-231	$50		$50				01/12/11	02/11/11	02/11/11			02/22/11	$50	$0	
1		1							1	OA 2010-232				$50		$50	01/12/11	02/11/11	02/11/11			01/21/11	$50		$0
1		1							1	OA 2010-207				$50	$50	$0	01/18/11	02/17/11	02/17/11		WITHDRAWN				$0
1	1								1	OT 2010-211	$50		$50				01/18/11	02/17/11	02/17/11					$50	
1	1								1	OT 2010-228	$50		$50				01/18/11	02/17/11	02/17/11			05/31/11	$50	$0	
1	1								1	OT 2010-241	$50		$50				01/19/11	02/18/11	02/18/11			03/23/11	$50	$0	
1	1								1	OT 2010-243	$50		$50				01/19/11	02/18/11	02/18/11			02/07/11	$50	$0	
1	1								1	OT 2010-234	$50		$50				01/19/11	02/18/11	02/18/11			03/04/11	$50	$0	
1	1								1	OT 2010-235	$50		$50				01/19/11	02/18/11	02/18/11			06/03/11	$50	$0	

CITATIONS ISSUED
1/1/2011-3/31/11

1	1								1	OT 2010-244	$50		$50				01/19/11	02/18/11	02/18/11			01/24/11	$50	$0	
1	1								1	OT 2010-240	$50		$50				01/19/11	02/18/11	02/18/11			02/11/11	$50	$0	
1	1								1	OT 2010-253	$50		$50				01/20/11	02/19/11	02/19/11					$50	
1	1								1	OT 2010-256	$50		$50				01/20/11	02/19/11	02/19/11			02/02/11	$50	$0	
1	1								1	OT 2010-239	$50		$50				01/20/11	02/19/11	02/19/11			05/17/11	$50	$0	
1	1								1	OT 2010-210	$50		$50				01/21/11	02/20/11	02/20/11					$50	
1		1							1	OA 2010-206				$50		$50	01/21/11	02/20/11	02/20/11						$50
1	1								1	OT 2010-208	$50		$50				01/21/11	02/20/11	02/20/11			02/28/11	$50	$0	
1	1							1		OT 2010-75	$250		$250				01/26/11	02/25/11	02/25/11			02/11/11	$250	$0	
1	1								1	OT 2010-242	$50		$50				01/26/11	02/25/11	02/25/11			02/23/11	$50	$0	
1	1								1	OT 2010-252	$50		$50				01/26/11	02/25/11	02/25/11			02/03/11	$50	$0	
1	1								1	OT 2010-249	$50		$50				01/26/11	02/25/11	02/25/11					$50	
1	1								1	OT 2010-163	$50		$50				01/27/11	02/26/11	02/26/11					$50	
1	1						1		1	OT 2010-31	$200		$200				01/27/11	02/26/11	02/26/11					$200	
1	1								1	OT 2010-146	$50		$50				01/27/11	02/26/11	02/26/11					$50	
1		1							1	OA 2010-263				$100		$100	01/27/11	02/26/11	02/26/11			02/24/11	$100		$0
1	1								1	OT 2010-257	$50		$50				01/27/11	02/26/11	02/26/11					$50	
1	1								1	OT 2010-237	$50		$50				01/27/11	02/26/11	02/26/11			03/24/11	$50	$0	
1	1							1		OT 2010-72	$250		$250				02/03/11	03/05/11	03/05/11			02/14/11	$250	$0	
1	1								1	OT 2010-261	$50		$50				02/04/11	03/03/11	03/03/11					$50	
1	1								1	OT 2010-250	$50		$50				02/04/11	03/03/11	03/03/11			02/24/11	$50	$0	
1	1								1	OT2010-288	$50		$50				02/04/11	03/03/11	03/03/11			02/17/11	$50	$0	
1		1							1	OA 2010-262				$50		$50	02/04/11	03/03/11	03/03/11						$50
1	1								1	OT 2010-258	$50		$50				02/04/11	03/03/11	03/03/11			04/25/11	$50	$0	
1	1								1	OT 2010-259	$50		$50				02/04/11	03/03/11	03/03/11					$50	
1	1								1	OT 2010-282	$50		$50				02/04/11	03/03/11	03/03/11			02/28/11	$50	$0	
1	1						1			OT 2010-115	$550		$550				02/04/11	03/06/11	03/06/11			03/07/11	$550	$0	
1	1								1	OT 2010-293	$50		$50				02/04/11	03/03/11	03/03/11			02/14/11	$50	$0	
1	1								1	OT 2010-284	$50		$50				02/04/11	03/03/11	03/03/11			03/04/11	$50	$0	
1	1								1	OT 2010-260	$50		$50				02/04/11	03/03/11	03/03/11	1		04/07/11	$50	$0	
1	1						1			OT 2010-186	$575		$575				02/07/11	03/07/11	03/07/11			02/28/11	$575	$0	
1	1								1	OT 2010-286	$50	$50	$0				02/07/11	03/07/11	03/07/11	1	DISMISSED			$0	
1	1								1	OT 2010-287	$50		$50				02/07/11	03/07/11	03/07/11			03/09/11	$50	$0	
1	1								1	OT 2010-295	$50		$50				02/07/11	03/07/11	03/07/11					$50	
1		1							1	OA 2010-281				$50	$50	$0	02/07/11	03/07/11	03/07/11	1	DISMISSED				$0
1	1							1		OT 2010-274	$500		$500				02/11/11	03/13/11	04/08/11	1		03/24/11	$500	$0	
1	1								1	OT 2010-294	$50		$50				02/15/11	03/17/11	03/17/11					$50	
1	1								1	OT 2010-291	$50		$50				02/15/11	03/17/11	03/17/11					$50	
1	1								1	OT 2010-352	$50		$50				03/02/11	04/01/11	04/01/11			03/11/11	$50	$0	
1	1								1	OT 2010-328	$50		$50				03/02/11	04/01/11	04/01/11					$50	
1	1								1	OT 2010-355	$50		$50				03/02/11	04/01/11	04/01/11			05/06/11	$50	$0	
1	1								1	OT 2010-354	$50		$50				03/02/11	04/01/11	04/01/11			03/24/11	$50	$0	
1	1								1	OT 2010-353	$50		$50				03/02/11	04/01/11	04/01/11			05/04/11	$50	$0	
1	1								1	OT 2010-351	$50		$50				03/02/11	04/01/11	04/01/11			03/30/11	$50	$0	
1	1								1	OT 2010-344	$50		$50				03/02/11	04/01/11	04/01/11			03/09/11	$50	$0	
1		1							1	OA 2010-343				$50		$50	03/02/11	04/01/11	04/01/11			03/08/11	$50		$0

CITATIONS ISSUED
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1	1								1	OT 2010-342			$0				03/02/11	05/18/11	05/15/11		DISMISSED		$0	
1	1								1	OT 2010-341	$50		$50				03/02/11	04/01/11	04/01/11				$50	
1	1								1	OT 2010-340	$50		$50				03/02/11	04/01/11	04/01/11		03/14/11	$50	$0	
1		1							1	OA 2010-346				$50		$50	03/10/11	04/09/11	06/05/11	1	06/14/11	$50		$0
1	1								1	OT 2010-369	$50		$50				03/10/11	04/09/11	04/09/11				$50	
1	1								1	OT 2010-337	$50		$50				03/10/11	04/09/11	04/09/11		05/02/11	$50	$0	
1	1								1	OT 2010-356	$50		$50				03/10/11	04/09/11	04/09/11		04/14/11	$50	$0	
1	1								1	OT 2010-316	$50		$50				03/10/11	04/09/11	04/09/11		05/27/11	$50	$0	
1		1							1	OA 2010-339				$50		$50	03/10/11	04/09/11	04/09/11		05/23/11	$50		$0
1	1								1	OT 2010-378	$50		$50				03/10/11	04/09/11	04/09/11		04/04/11	$50	$0	
1	1								1	OT 2010-373	$50		$50				03/10/11	04/09/11	04/09/11				$50	
1		1							1	OA 2010-330				$100		$100	03/10/11	04/09/11	04/09/11					$100
1		1							1	OA 2010-406				$50		$50	03/11/11	04/10/11	04/10/11		07/29/11		$50	$50
1		1							1	OA 2010-403				$50		$50	03/11/11	04/10/11	04/10/11					$50
1	1								1	OT 2010-375	$50		$50				03/11/11	04/10/11	04/10/11		04/01/11	$50	$0	
1	1								1	OT 2010-345	$50		$50				03/11/11	04/10/11	04/10/11				$50	
1	1								1	OT 2010-396	$50		$50				03/11/11	04/10/11	04/10/11				$50	
1	1								1	OT 2010-374	$50		$50				03/11/11	04/10/11	04/10/11				$50	
1	1								1	OT 2010-395	$50		$50				03/11/11	04/10/11	04/10/11				$50	
1	1								1	OT 2010-399	$50		$50				03/11/11	04/10/11	04/10/11		04/11/11	$50	$0	
1	1								1	OT 2010-238	$50		$50				03/11/11	04/10/11	04/10/11				$50	
1	1								1	OT 2010-350	$50	$50	$0				03/11/11	04/10/11	04/10/11		WITHDRAWN		$0	
1	1								1	OT 2010-397	$50		$50				03/11/11	04/10/11	04/10/11				$50	
1	1								1	OT 2010-439	$50		$50				03/17/11	04/16/11	04/16/11		04/04/11	$50	$0	
1	1								1	OT 2010-445	$50		$50				03/15/11	04/14/11	04/14/11		04/08/11	$50	$0	
1	1								1	OT 2010-438	$50		$50				03/17/11	04/16/11	04/16/11				$50	
1	1								1	OT 2010-440	$50		$50				03/17/11	06/10/11	06/10/11		06/10/11	$50	$0	
1	1								1	OT 2010-436	$50		$50				03/17/11	06/10/11	06/10/11		05/31/11	$50	$0	
1		1							1	OA 2010-437				$50		$50	03/17/11	04/16/11	04/16/11					$50
1		1							1	OA 2010-447				$50		$50	03/17/11	04/16/11	04/16/11					$50
1		1							1	OA 2010-443				$50		$50	03/17/11	04/16/11	04/16/11		03/28/11	$50		$0
1		1							1	OA 2010-444				$50		$50	03/17/11	04/16/11	04/16/11					$50
1	1								1	OT 2010-446	$50		$50				03/17/11	04/16/11	04/16/11				$50	
1	1								1	OT 2010-292	$50		$50				03/17/11	04/16/11	04/16/11		07/25/11	$50	$0	
1	1								1	OT 2010-430	$50		$50				03/17/11	04/16/11	04/16/11		04/15/11	$50	$0	
1	1								1	OT 2010-398	$50		$50				03/17/11	04/16/11	04/16/11		04/18/11	$50	$0	
1	1								1	OT 2010-407	$100		$100				03/17/11	04/16/11	04/16/11		03/24/11	$100	$0	
1	1								1	OT 2010-400	$50		$50				03/17/11	04/16/11	04/16/11				$50	
1		1							1	OA 2010-442				$50		$50	03/17/11	04/16/11	04/16/11		04/11/11	$50		$0
1	1								1	OT 2010-404	$50		$50				03/17/11	04/16/11	04/16/11		04/18/11	$50	$0	
1		1							1	OA 2010-405				$50		$50	03/17/11	04/16/11	04/16/11		05/26/11	$50		$0
1	1								1	OT 2010-410	$50		$50				03/17/11	04/16/11	04/16/11		03/25/11	$50	$0	
1	1								1	OT 2010-412	$50		$50				03/17/11	04/16/11	04/16/11				$50	
1	1								1	OT 2010-435	$50		$50				03/17/11	04/16/11	04/16/11				$50	
1	1								1	OT 2010-432	$50		$50				03/17/11	04/16/11	04/16/11		05/04/11	$50	$0	
1	1								1	OT 2010-433	$100	$100	$0				03/17/11	04/16/11	04/16/11		WITHDRAWN		$0	

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1	1								1	OT 2010-427	$50		$50				03/17/11	04/16/11	04/16/11			03/29/11	$50	$0	
1	1								1	OT 2010-426	$50		$50				03/17/11	04/16/11	04/16/11			04/18/11	$50	$0	
1	1								1	OT 2010-425	$50		$50				03/17/11	04/16/11	04/16/11			04/01/11	$50	$0	
1	1								1	OT 2010-424	$50		$50				03/17/11	04/16/11	04/16/11			04/04/11	$50	$0	
1	1								1	OT 2010-434	$50		$50				03/18/11	04/17/11	04/17/11			05/16/11	$50	$0	
1	1								1	OT 2010-441	$50		$50				03/18/11	04/17/11	04/17/11			03/25/11	$50	$0	
1	1								1	OT 2010-429	$50		$50				03/18/11	04/17/11	04/17/11			04/04/11	$50	$0	
1	1								1	OT 2010-428	$50		$50				03/18/11	04/17/11	04/17/11			04/14/11	$50	$0	
1	1								1	OT 2010-431	$50		$50				03/21/11	04/20/11	04/20/11					$50	
1		1							1	OA 2010-366				$50		$50	03/21/11	04/20/11	04/20/11						$50
1	1								1	OT 2010-409	$50	$50	$0				03/21/11	04/20/11	04/20/11	1	1	WITHDRAWN		$0	
1	1								1	OT 2010-408	$50		$50				03/21/11	04/20/11	04/20/11					$50	
1		1							1	OA 2010-251				$50		$50	03/21/11	04/20/11	04/20/11						$50
1	1						1			OT 2010-246	$200		$200				03/23/11	04/22/11	04/22/11			03/30/11	$200	$0	
1		1					1			OA 2010-194				$250		$250	03/23/11	04/22/11	06/05/11	1		08/03/11	$50		$200
1	1								1	OT 2010-448	$50		$50				03/24/11	04/23/11	04/23/11			03/29/11	$50	$0	
1	1								1	OT 2010-449	$50	$50	$0				03/24/11	04/23/11	04/23/11	1		DISMISSED		$0	
1	1								1	OT 2010-454	$50		$50				03/24/11	04/23/11	04/23/11			05/02/11	$50	$0	
1	1								1	OT 2010-361	$50		$50				03/24/11	04/23/11	04/23/11					$50	
1	1								1	OT 2010-451	$50		$50				03/24/11	04/23/11	04/23/11					$50	
1		1							1	OA 2010-347				$50		$50	03/24/11	04/23/11	04/23/11						$50
1	1								1	OT 2010-450	$50		$50				03/24/11	04/23/11	04/23/11			04/14/11	$50	$0	
1		1							1	OA 2010-453				$50		$50	03/24/11	04/23/11	04/23/11			04/25/11	$50		$0
1	1								1	OT 2010-452	$50	$50	$0				03/24/11	04/23/11	04/23/11			DISMISSED		$0	
1	1								1	OT 2010-368	$100		$100				03/24/11	04/23/11	04/23/11					$100	
1	1								1	OT 2010-362	$50		$50				03/24/11	04/23/11	04/23/11					$50	
1	1							1		OT 2010-269	$250	$250	$0				03/28/11	04/27/11	04/27/11	1		DISMISSED		$0	
1		1						1		OA 2010-304				$250		$250	03/28/11	04/27/11	04/27/11			04/11/11	$250		$0
1	1							1		OT 2010-271	$250		$250				03/30/11	04/29/11	04/29/11			04/14/11	$250	$0	
160	131	29	0	0	0	0	8	6	148		$10,775	$700	$10,075	$1,950	$100	$1,850				13	2		$8,875	$2,150	$950

Violation Key:

Applicant
FDC - Failure to Disclose Criminal Convictions
UPC - Unprofessional Conduct-Misrepresent credentials

Licensee
UPC - Unprofessional Conduct
CC - Criminal Convictions
ULP - Unlicensed Practice
PDU - Continuing Education
AD - Failure to Notify of Address Change

Non-Licensed
UL P- Unlicensed Practice

CITATIONS ISSUED
4/1/11-6/30/11

#	LICENSURE 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	DUE DATES		Appeal Rcvd		PAYMENT			
	OT	OTA	No Lic	FDC	UPC	CC	ULP	PDU	AD									Req For Conf.	Fine	ICR	ADMIN	Pymnt Date	Pymnt Amnt	Bal (OT)	Bal (OTA)
1	1								1	OT2010-342	$50		$50				04/18/11	05/18/11	05/18/11			06/20/11	$50	$0	
1	1							1		OT 2010-422	$250		$250				04/04/11	05/04/11	05/04/11			04/22/11	$250	$0	
1	1							1		OT 2010-275	$250	$250	$0				04/04/11	05/04/11	05/04/11	1		DISMISSED		$0	
1	1							1		OT 2010-457	$250	$100	$150				04/04/11	05/04/11	07/20/11			07/18/11	$150	$0	
1	1						1			OT 2010-390	$75		$75				04/13/11	05/13/11	05/13/11			04/19/11	$75	$0	
1	1								1	OT 2010-325	$50		$50				04/13/11	05/13/11	05/13/11			05/04/11	$50	$0	
1	1								1	OT 2010-382	$50		$50				04/13/11	05/13/11	05/13/11			05/24/11	$50	$0	
1		1						1		OA 2010-480				$250		$250	04/13/11	05/13/11	05/13/11			05/09/11	$250		$0
1	1							1		OT 2010-488	$250		$250				04/15/11	05/15/11	05/15/11					$250	
1	1								1	OT 2010-411	$50		$50				04/18/11	05/18/11	05/18/11					$50	
1	1								1	OT 2010-381	$50		$50				04/18/11	05/18/11	05/18/11			04/22/11	$50	$0	
1		1							1	OA 2010-477			$0	$50		$50	05/10/11	06/09/11	06/09/11						$50
1		1					1			OA 2010-319				$400		$400	05/10/11	06/09/11	06/0911			05/23/11	$400		$0
1	1								1	OT 2010-476	$50		$50				05/11/11	08/17/11	08/17/11			07/29/11	$50	$0	
1	1								1	OT 2010-478	$50		$50				05/11/11	06/10/11	06/10/11					$50	
1	1								1	OT 2010-413	$50		$50				05/13/11	06/12/11	08/26/11	1				$50	
1	1								1	OT 2010-495	$50		$50				05/13/11	06/12/11	06/12/11					$50	
1	1								1	OT 2010-462	$50		$50				05/13/11	06/12/11	06/12/11			05/19/11	$50	$0	
1	1								1	OT 2010-466	$50		$50				05/13/11	06/12/11	06/12/11			05/24/11	$50	$0	
1		1					1			AR 2010-509				$200		$200	05/17/11	06/16/11	06/16/11			06/23/11	$200		$0
1	1								1	OT 2010-463	$50		$50				05/20/11	06/19/11	06/19/11					$50	
1		1							1	OA 2010-464				$50		$50	05/20/11	06/19/11	06/19/11						$50
1		1							1	OA 2010-491				$50		$50	05/25/11	06/24/11	06/24/11						$50
1	1								1	OT 2010-501	$50		$50				05/25/11	06/24/11	06/24/11			06/06/11	$50	$0	
1	1								1	OT 2010-506	$50		$50				05/25/11	06/24/11	06/24/11			06/03/11	$50	$0	
1	1								1	OT 2010-507	$50		$50				05/25/11	06/24/11	06/24/11			06/27/11	$50	$0	
1	1								1	OT 2010-515	$50		$50				06/09/11	07/09/11	07/09/11			08/01/11	$50	$0	
1	1								1	OT 2010-516	$50		$50				06/09/11	07/09/11	07/09/11			06/16/11	$50	$0	
1	1								1	OT 2010-525	$50		$50				06/09/11	07/09/11	07/09/11			06/29/11	$50	$0	
1	1								1	OT 2010-523	$50		$50				06/09/11	07/09/11	07/09/11			07/19/11	$50	$0	
1		1						1		OA 2010-458				$250		$250	06/29/11	07/29/11	07/29/11						$250
31	24	7	0	0	0	0	3	6	22		$2,025	$350	$1,675	$1,250	$0	$1,250				2	0		$2,025	$500	$400

Violation Key:

CITATIONS ISSUED
4/1/11-6/30/11

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BOT ENFORCEMENT STATISICAL REPORT
January 1, 2011 – March 31, 2011

Total Complaints-Received: **282**

Complaints-Closed: **264**

Total Complaints-Pending: **85** (Oldest: 4/2/08)

Record of Arrests and Prosecutions [RAP] Received: 7

DOI Investigations Initiated: **9**

DOI Investigation Reports Received: **2**

Formal DOI Investigations Pending: **16** (Oldest: 3/10/10)

Subsequent Arrest Reports Received: **13**

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

Cases Pending with the Attorney General (AG): **22**

Transmitted	Complaint No	Type	Current Status
04/29/09	OT 2008-129	Accusation	Proposed Decision recd 4/8/11; discuss at Board mtg 6/16/11
05/05/09	AL 2008-126	SOI	Hearing held 2/8/11; Proposed Decision Adopted 3/7/11; Denial effective 4/6/11
09/22/09	OT 2008-374	Accusation	Accusation filed 3/23/10, NOD recd, hearing scheduled 3/7/11
01/20/10	OT 2008-87	Accusation	Accusation filed 5/14/10, NOD recd, hearing scheduled 7/20/11
07/21/10	D1 2008-77	Pet to Rev Prob	Petition to Revoke Probation filed 12/15/10; Hearing scheduled 9/14/11
08/03/10	OA 2009-134	Accusation	Accusation filed 1/21/11; NOD recd, hearing scheduled 10/3/11
08/09/10	OT 2008-407	Citation	Received appeal for hearing, hearing scheduled 6/21/11
08/12/10	D1 2006-360	Pet to Rev Prob	Petition to Revoke Probation filed 12/22/10; Hearing scheduled 9/14/11
08/31/10	OT 2009-278	Accusation	Accusation filed 12/15/10; NOD recd; hearing scheduled 10/10/11
09/02/10	OA 2009-266	Accusation	Accusation filed 1/31/11; NOD recd; Hearing scheduled 10/10/11
09/09/10	OT 2008-101	Accusation	Accusation filed 11/5/10; NOD recd; Hearing scheduled 8/3/11
09/15/10	D1 2004-124	Pet to Rev Prob	Petition to Revoke Probation filed 2/16/11; no NOD; Default effective 4/8/11
09/16/10	OT 2009-43	Accusation	Accusation filed 2/9/11; NOD recd 2/24/11; Hearing scheduled 9/14/11
11/03/10	OT 2009-195	Accusation	Accusation filed 3/24/11
11/12/10	OT 2009-139	Accusation	Accusation filed 2/2/11; NOD recd 2/22/11; Hearing scheduled 1/12/12
01/05/ 11	AR 2010-153	SOI	DAG to draft Statement of Issues
01/07/11	D1 2005-179	Pet to Rev Prob	Petition to Revoke Probation filed 3/16/11
01/18/11	D1 2008-27	Pet to Rev Prob	DAG to draft Petition to Revoke Probation
02/04/11	OT 2008-419	Citation	Received appeal for hearing; hearing scheduled 9/8/11
02/14/11	OT 2010-303	Accusation	DAG to draft Accusation
03/10/11	D1 2007-90	Pet to Rev Prob	DAG to draft Petition to Revoke Probation
03/21/11	AL 2010-176	SOI	DAG to draft Statement of Issues
03/23/11	OA 2010-177	Accusation	DAG to draft Accusation

Statement of Issues filed: **0**
Petition to Revoke Probation filed: **2**

Accusations filed: **5**
Accusation & Petition to Revoke Probation filed: **0**

Report prepared 8/15/2011

Final Decisions: 3

January 10, 2011	Katherine Kolbacki	Default Revocation
March 3, 2011	Lourdes Delmo	Granted Petition to Early Terminate Probation
March 15, 2011	Guy Brock	Default Revocation

BOT ENFORCEMENT STATISICAL REPORT
April 1, 2011 – June 30, 2011

Total Complaints-Received: **189**

Complaints-Closed: **135**

Total Complaints-Pending: **139** (Oldest: 9/19/08)

Record of Arrests and Prosecutions [RAP] Received: **13**

DOI Investigations Initiated: **4**

DOI Investigation Reports Received: **8**

Formal DOI Investigations Pending: **12** (Oldest: 5/26/11)

Subsequent Arrest Reports Received: **9**

Applications Denied pursuant to Business and Professions Code 480/485: **1**

Cases Pending with the Attorney General (AG): **25**

Transmitted	Complaint No	Type	Current Status
04/29/09	OT 2008-129	Accusation	Proposed Decision recd 4/8/11; Discuss at Board mtg 6/16/11
09/22/09	OT 2008-374	Accusation	Hearing scheduled 3/7/11; Default Vacated; Hearing scheduled 8/30/11
01/20/10	OT 2008-87	Accusation	Hearing 7/20/11; Proposed Decision recd 8/12/11; Discuss at Board mtg 9/8/11
07/21/10	D1 2008-77	Pet to Rev Prob	Petition to Revoke Probation filed 12/15/10; Hearing scheduled 9/14/11
08/03/10	OA 2009-134	Accusation	Accusation filed 1/21/11; NOD recd; Hearing scheduled 10/3/11
08/12/10	D1 2006-360	Pet to Rev Prob	Petition to Revoke Probation filed 12/22/10; Stip to Surrender effective 7/22/11
08/31/10	OT 2009-278	Accusation	Accusation filed 12/15/10; NOD recd; Hearing scheduled 10/10/11
09/02/10	OA 2009-266	Accusation	Accusation filed 1/31/11; NOD recd; Hearing scheduled 10/10/11
09/09/10	OT 2008-101	Accusation	Accusation filed 11/5/10; Stipulated Probation effective 7/21/11
09/16/10	OT 2009-43	Accusation	Accusation filed 2/9/11; NOD recd 2/24/11; Hearing scheduled 9/14/11
11/03/10	OT 2009-195	Accusation	Accusation filed 3/24/11; NOD recd 4/12/11
11/12/10	OT 2009-139	Accusation	Accusation filed 2/2/11; NOD recd 2/22/11; Hearing scheduled 1/12/12
01/05/ 11	AR 2010-153	SOI	Statement of Issues filed 7/8/11; Hearing scheduled 10/26/11
01/18/11	D1 2008-27	Pet to Rev Prob	Petition to Revoke Probation filed 6/27/11; NOD recd 7/12/11
02/04/11	OT 2008-419	Citation	Received appeal for hearing; hearing scheduled 9/8/11
02/14/11	OT 2010-303	Accusation	Accusation filed 4/26/11; no NOD; Default Revocation effective 7/6/11
03/10/11	D1 2007-90	Pet to Rev Prob	DAG to draft Petition to Revoke Probation
03/21/11	AL 2010-176	SOI	Statement of Issues filed 5/31/11; Hearing scheduled 9/8/11
03/23/11	OA 2010-177	Accusation	Accusation filed 6/28/11; NOD recd 8/3/11
04/07/11	D1 2008-455	Pet to Rev Prob	Petition to Revoke Probation filed 6/3/11
04/14/11	D1 2009-15	Pet to Rev Prob	DAG to draft Petition to Revoke Probation
04/20/11	D1 2002-191	Pet to Rev Prob	Petition to Revoke Probation filed 7/11/11
04/26/11	OA 2010-315	Accusation	Accusation filed 7/11/11; NOD recd 7/20/11
04/27/11	AL 2010-327	SOI	Statement of Issues filed 5/31/11; Hearing scheduled 9/8/11
05/10/11	OT 2010-182	Accusation	Accusation filed 6/28/11; NOD recd 7/7/11

Report prepared 8/15/2011

Statement of Issues filed: 2
Petition to Revoke Probation filed: 1

Accusations filed: 3
Accusation & Petition to Revoke Probation filed: 1

Final Decisions: 3

April 6, 2011	Romulus Galicia	Denial of Licensure
April 8, 2011	Corinne Cook	Default Revocation
May 11, 2011	Lynn Farney	Default Revocation

Report prepared 8/15/2011