

## **AGENDA ITEM 10**

### **CONSIDERATION AND POSSIBLE ADOPTION OF PROPOSED REGULATORY LANGUAGE TO AMEND TITLE 16, DIVISION 39, CCR SECTION 4161, CONTINUING COMPETENCY, SECTION 4162, COMPLETION AND REPORTING REQUIREMENTS, AND SECTION 4163, EXEMPTION FROM CONTINUING COMPETENCY REQUIREMENTS.**

The following are attached for review: Notice, Proposed Text, Initial Statement of Reasons, Fieldwork Education PDU Attestation form and two (2) public comments.

## TITLE 16. CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (Board) 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 August 8, 2016.

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 Board office not later than 5:00 pm on July 25, 2016.

The Board, 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 section 2570.20 of the Business and Professions Code (BPC), and to implement, interpret or make specific sections 2570.10 and 2570.11 of said Code, the Board is proposing to revise Division 39, Title 16 of the California Code of Regulations (CCR) as follows:

### INFORMATIVE DIGEST

#### Informative Digest

The Board is the regulatory entity that regulates the practice of occupational therapy in the State of California. Existing law, BPC section 2570.25, mandates protection of the public shall be the highest priority of the Board in exercising its licensing, regulatory, and disciplinary functions.

#### Policy Statement Overview

Existing law, BPC section 2570.10 establishes that in addition to any other qualifications and requirements for license renewal, the Board may by rule establish and require the satisfactory completion of continuing competency requirements as a condition of renewal of a license.

This proposed action will amend 16 CCR Section 4161 which establishes and defines the requirements for occupational therapists and occupational therapy assistants to complete continuing competency requirements as a condition for license renewal. This is demonstrated by completing twenty-four (24) professional development units (PDUs) during the preceding (two-year) renewal period and recording the information on the renewal form.

In the case of a license renewed after its expiration, the licensee must submit evidence of completing 24 PDUs within the two years immediately preceding the delinquent renewal.

This proposed action will amend 16 CCR Section 4162, which establishes and defines the requirements for occupational therapists and occupational therapy assistants to record, on the renewal form, the date each course or activity was completed, the provider, the course number/title, if applicable, the description of the course, and the total number of PDUs. Records showing participation in each professional development activity must be maintained by the occupational therapy practitioner for four (4) years following the renewal period. A maximum of six (6) PDUs in excess of the required 24 PDUs may be carried over to the next renewal period. Any occupational therapy practitioner who is unable to provide records documenting completion of the continuing competency requirements is subject to citation and/or administrative fine or disciplinary action. The proposed action will amend the number of PDUs a practitioner will receive for the supervision of a Level II student and also receive credit for the supervision of a Level I student. The said supervision must be documented by the practitioner, immediately upon conclusion of the supervision period, using the Fieldwork Education PDU Attestation form (Form FEA New 6/2016) hereby incorporated by reference, and shall contain a statement under penalty of perjury regarding the truthfulness of the information contained therein.

This proposed action will amend 16 CCR Section 4163 which, for those licensees unable to complete PDUs due to physical or mental disability, limits the continuing competency exemptions allowed before a licensee must renew their license in an inactive status.

#### Benefit of Proposed Regulations

This proposed action will encourage and incentivize practitioners to supervise the fieldwork of Level I and Level II occupational therapist and occupational therapy assistant students by allowing the practitioners to receive credits for doing so. For supervising the fieldwork of a Level I student, the practitioner will receive one (1) PDU. For each forty (40) hours of supervision of the fieldwork of a Level II student, the practitioner will receive (1) PDU. A maximum of twelve (12) PDUs of credit for supervising Level II and/or Level I students shall be allowed per renewal period. Existing regulations allow the practitioner to receive 0.5 PDUs for each 60 hours of supervision of the fieldwork of Level II occupational therapist and occupational therapy assistant students.

This proposed action will also allow the fieldwork supervision hours of a single student to be divided between licensees as there is no sole supervisor during the fieldwork. Total weekly hours claimed by more than one licensee sharing supervision of a single student shall not exceed 40 hours per week. Credit for PDUs shall only be earned for the dates of supervision occurring during the renewal period. The supervision shall not be the primary responsibility of the licensee's employment.

This proposed action will require an occupational therapy practitioner who supervises a student completing their Level I and/or Level II fieldwork to document said supervision using a newly proposed form entitled the Fieldwork Education PDU Attestation form (Form FEA New 6/2016), which contains a statement under penalty of perjury regarding the truthfulness of the information contained therein.

This proposed action will clarify that an exemption will not be granted for two (2) consecutive renewal periods. In the event a licensee cannot complete continuing competency requirements following an exemption, the licensee may only renew the license in an inactive status.

The proposed regulatory action defines, clarifies, and updates many aspects and principals of the Board's continuing competency requirement and promotes more efficient administration, coordination, and enforcement of the continuing competence requirements. The proposed regulatory action ultimately is designed to enhance and promote public safety by ensuring practitioners stay current with trends and technological advances in the delivery of occupational therapy services to the public.

#### Consistency and Compatibility with Existing State Regulations

The Board has conducted a review of existing related regulations and has determined that these are only regulations dealing with continuing competency of occupational therapists and occupational therapy assistants. Therefore, this regulatory proposal is consistent and compatible with existing state regulations.

Documents Incorporated by Reference: Fieldwork Education PDU Attestation Form FEA (New 6/2016).

#### **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

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

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

Business Impact:

The Board has made a determination that the proposed regulatory action would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

#### **RESULTS OF ECONOMIC IMPACT ANALYSIS**

Impact on Jobs/New Business:

The Board has determined that this regulatory proposal will not have an adverse 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.

Existing regulations already require occupational therapy practitioners to complete continuing competence (continuing education) course work or activities. This proposed action will allow practitioners to receive credit for supervising the fieldwork of Level I occupational therapist and occupational therapy assistant students and increase credit for supervising fieldwork of Level II students. This proposed action will also make other amendments related to the accumulation of continuing competency credits and clarify and establish a limit on the number of continuing competence exemptions that can be granted to a licensee.

Benefits to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The proposed regulatory action amends and updates existing regulations relevant to continuing competence requirements for occupational therapy practitioners. Adoption of this proposed action will enhance and promote the administration, coordination, and enforcement of these provisions and ultimately promote the Board's mandate to protect the health, safety, and welfare of California consumers.

Cost Impact on Affected Private Persons:

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. The Board has determined that this regulatory proposal will not adversely impact affected private persons (licensed occupational therapy practitioners and future applicants). Existing regulations require practitioners and applicants to complete PDUs in order to renew their license. This proposed action does not increase or decrease the number of PDUs that are required for license renewal.

Effect on Housing Costs: None

Effect on Small Business:

The Board has made a determination that the proposed regulatory action would have no statewide adverse economic impact on small business. The proposed regulatory action impacts individuals licensed to provide or assist in the practice of occupational therapy.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative is considered to the regulation 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 or would be more cost-effective to the private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations within the timeframes identified in this Notice, or at a hearing in the event that such a request is made by the public.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulation, and 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 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 2250  
Sacramento, CA 95815  
(916) 263-2294 (Tel) (916) 263-2701 (Fax)

The backup contact person is:

Ranjila Sandhu  
[Same contact information as above]

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

**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY  
APPROVED MODIFIED REGULATORY LANGUAGE  
Title 16, Division 39, California Code of Regulations**

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

Amend Title 16, Division 39, Article 7, California Code of Regulations to read as follows:

**§ 4161. Continuing Competency**

(a) ~~Effective January 1, 2006, e~~Each licensee renewing a license under Section 2570.10 of the Code shall submit evidence of meeting continuing competency requirements by having completed twenty-four (24) professional development units (PDUs) during the preceding renewal period, or in the case of a license delinquently renewed, within the two years immediately preceding the renewal, acquired through participation in professional development activities.

(1) One (1) hour of participation in a professional development activity qualifies for one PDU;

(2) One (1) academic credit equals 10 PDUs;

(3) One (1) Continuing Education Unit (CEU) equals 10 PDUs.

(b) Topics and subject matter shall be pertinent to the practice of occupational therapy and course material must have a relevance or direct application to a consumer of occupational therapy services. Except as provided in subdivision (c), professional development activities acceptable to the board include programs or activities sponsored by the American Occupational Therapy Association (AOTA) or the Occupational Therapy Association of California; post-professional coursework completed through any approved or accredited educational institution, or otherwise meets all of the following criteria:

(1) The program or activity contributes directly to professional knowledge, skill, and ability; and

(2) The program or activity must be objectively measurable in terms of the hours involved.

(c) PDUs may also be obtained through any or a combination of the following:

(1) Involvement in structured special interest or study groups with a minimum of three (3) participants. Three (3) hours of participation equals one (1) PDU, with a maximum of six (6) PDUs credited per renewal period.

(2) Structured mentoring with an individual skilled in a particular area. For each 20 hours of being mentored, the practitioner will receive three (3) PDUs, with a maximum of six (6) PDUs credited per renewal period.

(3) Structured mentoring of a colleague to improve his/her skills. Twenty (20) hours of mentoring equals three (3) PDUs, with a maximum of six (6) PDUs credited per renewal period.

(4) Supervising the fieldwork of Level I and Level II occupational therapist and occupational therapy assistant students shall be credited as follows: ~~For each 60 hours of supervision, the practitioner will receive .5 PDU, with a maximum of twelve (12) PDUs credited per renewal period.~~

(A) Supervising the fieldwork of a Level I student. For each student supervised the practitioner will receive 1 PDU.

(B) Supervising the fieldwork of a Level II student. For each 40 hours of supervision the practitioner will receive 1 PDU.

(C) A maximum of twelve (12) PDUs of credit for supervising Level II and/or Level I students shall be allowed per renewal period.

(D) The supervision shall not be the primary responsibility of the licensee's employment.

(E) Credit for PDUs shall only be earned for the dates of supervision occurring during the renewal period.

(F) Fieldwork supervision hours of a single student may be divided between licensees. Total weekly hours claimed by more than one licensee sharing supervision of a single student shall not exceed 40 hours per week.

(5) Publication of an article in a non-peer reviewed publication. Each article equals five (5) PDUs, with a maximum of ten (10) PDUs credited per renewal period.

(6) Publication of an article in a peer-reviewed professional publication. Each article equals 10 PDUs, with a maximum of ten (10) PDUs credited per renewal period .

(7) Publication of chapter(s) in occupational therapy or related professional textbook. Each chapter equals 10 PDUs, with a maximum of ten (10) PDUs credited per renewal period.

(8) Making professional presentations at workshops, seminars and conferences. For each hour presenting, the practitioner will receive two (2) PDUs, with a maximum of six (6) PDUs credited per renewal period.

(9) Attending a meeting of the California Board of Occupational Therapy. Each meeting attended equals two (2) PDUs, with a maximum of six (6) PDUs credited per renewal period.

(10) Attending board outreach activities. Each presentation attended equals two (2) PDUs, with a maximum of four (4) PDUs credited per renewal period.

(d) Partial credit will not be given for the professional development activities listed in subsection (c) and a maximum of twelve (12) PDUs may be credited for the activities listed in subsection (c).

(e) This section shall not apply to the first license renewal following issuance of the initial license.

(f) Of the total number of PDUs required for each renewal period, a minimum of one half of the units must be directly related to the delivery of occupational therapy services, may include: models, theories or frameworks that relate to client/patient care in preventing or minimizing impairment, enabling function within the person/environment or community context. Other activities may include, but are not limited to, occupation based theory assessment/interview techniques, intervention strategies, and community/environment as related to one's practice.

(g) Applicants who have not been actively engaged in the practice of occupational therapy within the past five years completing continuing competency pursuant to section 2570.14(a) of the Code to qualify for licensure shall submit evidence of meeting the continuing competency requirements by having completed, during the two year period immediately preceding the date the application was received, forty (40) PDUs that meet the requirements of subsection (b). The forty PDUs shall include:

(1) Thirty-seven (37) PDUs directly related to the delivery of occupational therapy services, which may include the scope of practice for occupational therapy practitioners or the occupational therapy practice framework;

(2) Three (3) PDUs related to ethical standards of practice in occupational therapy.

Note: Authority cited: Sections 2570.10 and 2570.20, Business and Professions Code. Reference: Section 2570.10, Business and Professions Code.

#### **4162. Completion and Reporting Requirements**

(a) The occupational therapy practitioner shall record the following information for each activity on the renewal form:

(1) the date each course or activity was completed;

(2) the provider, course number, and course title, if applicable;

(3) a description of the course; and

(4) the total number of PDUs.

(b) Records showing participation in each professional development activity must be maintained by the occupational therapy practitioner for four (4) years following the renewal period.



~~(c) A maximum of three (3) PDUs in excess of the required 12 PDUs may be carried over to the next renewal period for those practitioners renewing after one year. A maximum of six (6) PDUs in excess of the required 24 PDUs may be carried over to the next renewal period for these practitioners renewing after two years.~~

(d) Any occupational therapy practitioner who is unable to provide records documenting completion of the continuing competency requirements is subject to citation and/or administrative fine or disciplinary action.

(e) Any occupational therapy practitioner who supervises a Level I and/or Level II student shall document said supervision, immediately upon conclusion of the supervision period, using the Fieldwork Education PDU Attestation form (Form FEA New 6/2016) hereby incorporated by reference, and shall contain a statement under penalty of perjury regarding the truthfulness of the information contained therein.

Note: Authority cited: Sections 2570.10 and 2570.20, Business and Professions Code. Reference: Section 2570.10, Business and Professions Code.

### **§ 4163. Exemption from Continued Competency Requirements**

At the time of applying for renewal of a license, an occupational therapy practitioner may request an exemption from the continuing competency requirements. The renewal application must provide the following information:

(a) Evidence that during the renewal period prior to the expiration of the license, the practitioner was residing in another country for one year or longer, reasonably preventing completion of the continuing competency requirements; or

(b) Evidence that the practitioner was absent from California because of military service for a period of one year or longer during the renewal period, preventing completion of the continuing competency requirements; or

(c) Evidence that the practitioner should be exempt from the continuing competency requirements for reasons of health or other good cause which include:

(1) Total physical and/or mental disability and inability to work for one (1) year or more during the renewal period and the inability to work during this period has been verified by a licensed physician or surgeon or licensed clinical psychologist; or

(2) Total physical and/or mental disability for one (1) year or longer of an immediate family member for whom the practitioner had total responsibility, as verified by a licensed physician or surgeon or licensed clinical psychologist.

(d) An exemption under this section shall not be granted for two (2) consecutive renewal periods. In the event a licensee cannot complete continuing competency requirements following an exemption, the licensee may only renew the license in an inactive status.

Note: Authority cited: Sections 2570.10 and 2570.20, Business and Professions Code. Reference: Sections 2570.10 and 2570.11, Business and Professions Code.

# CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

## INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Continuing Competency

Sections Affected: Title 16, Division 39, California Code of Regulations (CCR), sections 4161, 4162, and 4163

### Introduction

The California Board of Occupational Therapy (Board) is the state agency that regulates the practice of occupational therapy. The Board's highest priority in exercising its licensing, regulatory, and disciplinary functions is to protect and promote the health, safety and welfare of California consumers. The Board administers, coordinates, and enforces provisions of the laws and regulations pertaining to occupational therapy.

Existing regulations contained in 16 CCR sections 4161, 4162, and 4163 establish and set forth rules and parameters related to the Board's continuing competence (continuing education) requirements for occupational therapy practitioners.

This proposed action seeks to increase the amount of continuing competence credit that an occupational practitioner would earn for supervising Level II students, establish credit for supervising a Level I student, establish supervision of a student shall not be the primary responsibility of a licensee's employment, clarify how credit for supervising a student applies when the supervision spans the licensee's renewal period, establishes that shared supervision of a student is acceptable and provides how credit must be allocated in such situations, requires practitioners to document student fieldwork supervision on a form prescribed by the Board, provides clarification on the meaning of total mental or physical disability when a licensee requests an exemption from the continuing competency requirement, places a limit on the amount of consecutive renewal periods that a practitioner can be granted an exemption from the continuing competence requirement, and cleans up and updates existing language.

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT OR REPEAL:

### **Amend 16 CCR section 4161(a)**

Existing language establishes that effective January 1, 2006, occupational therapy practitioners shall complete 24 professional development units (PDU) in order to renew their license with active status.

The proposed amendment to this section will delete 'Effective January 1, 2006' from the existing language in this section.

*Factual Basis/Rationale:* It is no longer necessary to provide an effective date or draw a distinction to the implementation date of this regulatory requirement. The requirement has been in effect for more than ten years. This proposal is technical in nature and will not change the meaning or intent of the section.

## **Amend 16 CCR section 4161(c)(4)**

Existing language contained in subdivision (c) identifies and lists activities that a licensee can do in lieu of completing traditional coursework toward the continuing competence requirement. Specifically, 16 CCR section 4161(c)(4) allows a licensee to earn PDU credit for supervising a Level II student and that, for each 60 hours of fieldwork supervision that a licensee provides, they will earn .5 PDU.

The proposed amendments and new language in this section will:

(A) Establish that a licensee who supervises the fieldwork of a Level I student shall receive 1 PDU.

(B) Increase PDU credit for a licensee who supervises the fieldwork of a Level II student to 1 PDU for each 40 hours of supervision that is provided.

(C) Maintain the existing 12 PDU cap that can be applied toward the continuing competence requirement for supervising a student.

(D) Establish that supervision of a student shall not be the primary responsibility of the licensee's employment.

(E) Establish and clarify credit for PDUs shall only be earned for the dates of supervision occurring during the licensee's renewal period.

(F) Establish and clarify that supervision of a single student can be shared between licensees and that the total weekly supervision hours claimed by more than one licensee supervising a single student shall not exceed 40 hours per week.

*Factual Basis/Rationale:* The proposed amendments and new language in 16 CCR section 4161(c)(4)(A) and (B) are designed to facilitate the Board's objective to encourage and incentivize licensees to provide fieldwork supervision to occupational therapy (OT) and occupational therapy assistant (OTA) students. Language contained in 16 CCR section 4161(c)(4)(C) is existing language that is being moved, reformatted, and updated to align it with changes being proposed in this action. New language proposed in 16 CCR section 4161(c)(4)(D) is intended to prevent a licensee from being employed for the sole purpose of providing supervision to a student or students when the role of the supervisor is meant to demonstrate to students how to engage, assess, evaluate, develop treatment plans, and deliver occupational therapy services to clients. New language proposed in 16 CCR section 4161(c)(4)(E) is designed to establish and clarify situations where supervision of a student spans or bridges over more than one license renewal period and eliminate any misperception that credit can be applied outside the licensee's renewal period for this activity. New language proposed in 16 CCR section 4161(c)(4)(F) is designed to establish and clarify how PDU credits should be allocated to licensees when they co-supervise a student. For example, if two licensees share supervision of a Level II student who worked 40 hours in a week, each supervisor would be prohibited from claiming 40 hours of supervision for that single student in that week. The supervisors would be responsible for allocating the credit accordingly for the supervision in that week according. For example, one licensee supervised the student three days of the week and another licensee supervised the same student in the same week for two days. The allocation of supervision hours for the first supervisor would be 24 and for the second supervisor it would be 16.

## **Amend 16 CCR section 4162**

Existing language contained in 16 CCR section 4162 sets forth certain requirements pertaining to completion and reporting requirements of continuing competency activities.

This proposed action would clean up existing language in 16 CCR 4162(c) by deleting the reference that a maximum of three (3) PDUs in excess of the required 12 PDUs may be carried over to the next renewal period for those practitioners renewing after one year. It will maintain that a maximum six (6) PDUs in excess of the required 24 PDUs may be carried over to the next renewal period.

This proposed action would add new language, 16 CCR section 4162(e), that would require occupational therapy practitioners who supervise a Level I or Level II student to document the supervision on a form titled 'Fieldwork Education PDU Attestation' as prescribed by the Board immediately upon the conclusion of the supervision. The form would require the supervisor to certify all information contained on the form is correct and it would require co-signature of the supervisor's employer or Academic Fieldwork Coordinator.

*Factual Basis/Rationale:* Since the Board has completely transitioned all licensees to a biennial renewal period, reference to the three (3) PDU carry over for a one year license renewal is no longer appropriate or necessary in 16 CCR section 4162(c). The intent and purpose of developing the 'Fieldwork Education PDU Attestation' in 16 CCR section 4162 (e) (and further referred to as 'form' in this paragraph) is for consistency in reporting the activity for continuing competence credit and for audit purposes. It will remove the burden from Academic Fieldwork Coordinators to produce documentation to verify a licensee has supervised a student for PDU credits at the conclusion of supervision or when the licensee has been selected for a continuing competence audit. The form further reduces any burden placed on Academic Fieldwork Coordinators by allowing a licensee's employer to co-sign the document. This proposed action now places responsibility on the licensee to document student supervision on the form. This will allow the licensee to maintain the form just as they would any certificate of completion that they would receive for attending a course, seminar, or conference in the event the licensee is selected for a continuing competence audit by the Board.

## **Amend 16 CCR Section 4163**

Existing language contained 16 CCR section 4163 sets forth rules and parameters for a licensee to request an exemption from the Continuing Competence Requirement.

This proposed action would modify 16 CCR section 4163(c)(1) to add the language "and inability to work" to clarify that "total physical and mental disability" is intended to mean the licensee has been unable to work for a period of one (1) year or more. This proposed action would also add new language in 16 CCR section 4163(d) which would prohibit a licensee from being granted a continuing competence exemption for two (2) consecutive renewal periods.

*Factual Basis/Rationale:* The Board seeks modification to 16 CCR section 4163(c)(1) to add clarity to the section to assist licensees in interpreting the regulation. It is also designed to assist the licensee's health care provider in submitting complete information

related to the licensee's condition in order for Board staff to render a determination whether to grant or deny the exemption request. New language in 16 CCR section 4163(d) is designed to eliminate situations where the continuing competence requirement could be repeatedly circumvented or diminished in a way that would be inconsistent with the public's health, safety, and welfare.

DOCUMENT INCORPORATED BY REFERENCE: Fieldwork Education PDU Attestation, Form FEA (New 6/2016)

DATA RELIED UPON: None

#### BUSINESS IMPACT:

This regulation will not have an adverse economic impact on business. Existing regulations require occupational therapists to complete continuing competence as a condition to renew a license with active status. This proposed action increases the amount of credit that an occupational practitioner would earn for supervising Level II students and establish credit for supervising a Level I student. It establishes other rules regarding the accumulation of continuing competence credit for supervising OT/OTA students as well as clarifying and setting limits on the amount of continuing competence exemptions a licensee could be granted.

#### ECONOMIC IMPACT ANALYSIS

##### Background

This proposed action is designed to encourage and incentivize occupational therapy licensees to provide fieldwork supervision to OT/OTA students by increasing continuing competency credit for this activity. This proposed action will also make other amendments related to the accumulation of continuing competency credits and clarify and establish a limit on the amount of continuing competence exemptions a licensee could be granted.

##### Creation or Elimination of Jobs within California

The Board has determined the proposed regulatory action will not create or eliminate jobs within California. This proposed action amends and modifies existing continuing competency requirements for occupational therapy practitioners and will not have an impact on either the creation or elimination of jobs within California.

##### Creation of New Business or Elimination of Existing Business within California

The Board has determined the proposed regulatory action will not create new business or eliminate existing business. This proposed action amends and modifies existing continuing competency requirements for occupational therapy practitioners and will not result in the creation of new business or elimination of existing business within California.

##### Expansion of Business within California

The Board has determined the proposed regulatory action will not expand business within California. This proposed action amends and modifies existing continuing competency requirements for occupational therapy practitioners and will not result in the expansion of business within California.

### Benefits of Regulations

The purpose and intent of the proposed actions in 16 CCR section 4161 are to encourage and incentivize licensees to provide fieldwork supervision to students. The California OT Fieldwork Counsel Students (CAOTFC) reports they are experiencing decreasing availability of therapists that are willing to supervise OT/OTA students and the current trend is not sustainable. By increasing the credit for supervising a Level II student, and establishing credit for supervising a Level I student, it is hoped it will become more attractive for therapists to train OT/OTA students. Students would benefit as an increase in clinical instructors would provide more training opportunities and offer placements in diversified settings where occupational therapy services are delivered.

The benefit of other proposed language in 16 CCR sections 4161 and 4162 is that it promotes transparency, clarity, and provides guidance on the rules regarding the accumulation of continuing competence credit for licensees supervising student fieldwork.

The benefit of amendments to 16 CCR section 4163(c)(1) is that it promotes transparency, clarity, and guidance to licensees and their health care providers when seeking an exemption from the Board's Continuing Competency Requirements.

Implementation of new language in 16 CCR section 4163(d) is designed to benefit the public's health, safety, and welfare by restricting a licensee's ability to obtain continuing competence exemptions for two (2) consecutive renewal periods, which would diminish continuing competence requirements to the public's detriment.

In summary, the benefit of these proposed regulations advance the Board's duty to administer, coordinate, and enforce provisions of the Occupational Therapy Practice Act to protect and promote the health, safety, and welfare of California consumers.

### SPECIFIC TECHNOLOGIES OR EQUIPMENT:

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

### CONSIDERATION OF ALTERNATIVES:

#### Alternative:

The Board considered doing nothing and leaving these provisions as they are currently written. This alternative was rejected because taking no action would not address concerns about decreasing availability of therapists to supervise OT/OTA students, or address other aspects proposed in this regulatory action pertaining to the accumulation of continuing competence credits for licensees supervising OT/OTA students. In addition, limiting the number of consecutive renewal periods that a

practitioner may be granted an exemption from continuing competency requirements would advance the Board's highest priority of protecting the public.



### Fieldwork Education PDU Attestation

Licensee Name (Supervisor): \_\_\_\_\_

OTA     OT    License Number: \_\_\_\_\_

Occupational therapy student (name): \_\_\_\_\_

OTA     OT Fieldwork     Level 1     Level 2

College/University: \_\_\_\_\_

Dates of Fieldwork: \_\_\_\_\_ to \_\_\_\_\_

Number of hours as fieldwork supervisor: \_\_\_\_\_

Average hours/week as fieldwork supervisor: \_\_\_\_\_

Co-supervisor(s) (if any): \_\_\_\_\_

Professional Development Units requested: \_\_\_\_\_

(A maximum of 12 PDUs may earned for supervising students per biennial renewal period)

Signature of licensee: \_\_\_\_\_ Date: \_\_\_\_\_

*By signing above, I declare under penalty of perjury of the laws of the State of California that the information contained on this form is true and correct. I understand any misrepresentation of any item on this form is sufficient grounds for disciplinary action by the California Board of Occupational Therapy.*

### Employer or Fieldwork Coordinator Verification (Information below must be completed by Employer or Fieldwork Coordinator)

Licensee's Employer     Academic Fieldwork Coordinator (Select one)

Facility/College or University: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_





July 18, 2016

Correspondence to:

California Board of Occupational Therapy  
2005 Evergreen Street, Suite 2250  
Sacramento, CA 95815

The California OT Fieldwork Council (14 CA OT/OTA Schools represented) is overwhelmingly in agreement of the proposed changes as per [http://www.bot.ca.gov/board\\_activity/laws\\_regs/4161\\_notice\\_txt\\_isr\\_fea.pdf](http://www.bot.ca.gov/board_activity/laws_regs/4161_notice_txt_isr_fea.pdf).

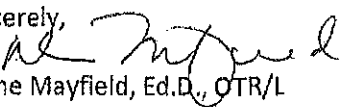
**If the following changes are incorporated:**

1. We request that the AFWC attestation to the fieldwork educator's claimed number of hours (referring to The Fieldwork Education PDU Attestation form) be removed. As AFWCs we can attest to the placement of our students at the site as well as to who is supervising the student, but cannot attest to the number of hours of supervision. Leaving the Licensee's Employer as a signer is appropriate. We do notice the 'perjury clause' is indicated for the fieldwork supervisor only on this form. Therefore, if there was a 'to the best of our knowledge' clause added to the signature area for the AFWC, that would be acceptable as well.
2. We request that the new language proposed the 16 CCR section 4161(c)(4)(E) regarding "The supervision shall not be the primary responsibility of the licensee's employment" be removed. We do understand the reason as stated on page 2 of the Initial Statement of Reasons was intended to safe guard the student from a supervisor only supervising for the money. However, in many of the teaching Hospitals, Clinical Instructors (clinical education coordinators) supervise and educate students as a primary job responsibility. This practice ensures consistent training of fieldwork students throughout the rotation from a uniquely trained OT practitioner. However, we could recommend this wording to be replaced with 'The supervision is focused on

demonstrating to the students how to engage, assess, evaluate, develop treatment plans, and deliver occupational therapy services to clients and will not be a fee based service.'

We truly appreciate the hard work of the Board in noticing this vital, critical, and very much needed change to the PDU assignment for the fieldwork educators in CA.

Sincerely,

  
Diane Mayfield, Ed.D., OTR/L  
Chair of the CAOTFW Council

# USC Mrs. T.H. Chan Division of Occupational Science and Occupational Therapy

August 8, 2016

Jeff Hanson  
California Board of Occupational Therapy  
2005 Evergreen Street, Suite 2250  
Sacramento, CA 95815

Greetings Mr. Hanson and the Board,

Thank you for your consideration and modification of proposed language amending 16 CCR Section 4162 to "encourage and incentivize practitioners to supervise the fieldwork of Level I and Level II occupational therapist and occupational therapy assistant students..." (4161 notice p. 2)

As an Academic Fieldwork Coordinator in California for the past 14 years and AOTA Fieldwork Educator Certificate course trainer for the past 7, I endeavor to encourage practitioners to take up the critically important role of being fieldwork educators. I applaud and fully support efforts to incentivize practitioners, as this has proven to be a motivator for NBCOT recertification. However, this is not what practitioners need to renew their licenses in the state of California!

I strongly urge you to consider modifying 16 CCR section 4161 (c) (4) (C) increasing the maximum number of PDU credits for supervising Level II and/or Level I students per renewal period from the proposed twelve (12) PDUs to 14 or even 16. The currently proposed language "twelve (12) PDUS of credit for supervising Level II and/or Level I students" is easily satisfied by educating 1 full-time OT Level II (12-week) student in a 2 year period. Increasing the number to even 14 could encourage a practitioner to do even more by supervising Level I students too.

I also support the changes proposed by the California Occupational Therapy Fieldwork Council:

1. We request that the AFWC attestation to the fieldwork educator's claimed number of hours (referring to The Fieldwork Education PDU Attestation form) be removed. As AFWCs we can attest to the placement of our students at the site as well as to who is supervising the student, but cannot attest to the number of hours of supervision. Leaving the Licensee's Employer as a signer is appropriate. We do notice the 'perjury




clause' is indicated for the fieldwork supervisor only on this form. Therefore, if there was a 'to the best of our knowledge' clause added to the signature area for the AFWC, that would be acceptable as well.

2. We request that the new language proposed the 16 CCR section 4161(c)(4)(E) regarding "The supervision shall not be the primary responsibility of the licensee's employment" be removed. We do understand the reason as stated on page 2 of the Initial Statement of Reasons was intended to safe guard the student from a supervisor only supervising for the money. However, in many of the teaching Hospitals, Clinical instructors (clinical education coordinators) supervise and educate students as a primary job responsibility. This practice ensures consistent training of fieldwork students throughout the rotation from a uniquely trained OT practitioner. However, we could recommend this wording to be replaced with 'The supervision is focused on demonstrating to the students how to engage, assess, evaluate, develop treatment plans, and deliver occupational therapy services to clients and will not be a fee based service.'

In closing, I again thank you and the Board for recognizing this important professional activity (fieldwork education) and for supporting the vital needs for fieldwork in California, especially by moving forward with language modification and an increase in credit for these critical activities.

Respectfully submitted,

*Jayne Meyer, OTD, OTR/L* 

Jayne Meyer, OTD, OTR/L  
Academic Fieldwork Coordinator/Assistant Professor of Clinical Occupational Therapy  
Mrs. TH Chan Division of Occupational Science & Occupational Therapy  
University of Southern California