PRESENTATION ON LEGISLATIVE PROPOSAL SPONSORED BY THE AMERICAN OCCUPATIONAL THERAPY ASSOCIATION (AOTA), THE OCCUPATIONAL THERAPY ASSOCIATION (OTAC), AND CAPITOL ADVOCACY, LOBBYIST FOR OTAC/AOTA, TO AMEND THE OCCUPATIONAL THERAPY PRACTICE ACT AND OTHER SECTIONS RELATING TO THE PRACTICE OF OCCUPATIONAL THERAPY.

OTAC/AOTA proposed amendments to the Occupational Therapy Practice Act are attached for your review:

AOTA® The American Occupational Therapy Association, Inc.

OTAC Occupational Therapy Association of California

OT Practice Act Modernization

Occupational therapists' scope of practice is governed by The Occupational Therapy Practice Act, which was passed by the California Legislature in 2000 and has not been updated since becoming law. Since that time, the practice of occupational therapy has matured, patient needs have become more diverse, and healthcare reform has changed and broadened services provided. This evolution in healthcare and occupational therapy services has resulted in the need to update the Occupational Therapy Practice Act. To address this need, the Occupational Therapy Association of California (OTAC) and the American Occupational Therapy Association (AOTA) are proposing amendments to the Act, which include the revision of outdated definitions, clarification of provisions related to advance practices, revision of continuing competence and coursework requirements, and clarification of the provision of mental health services by occupational therapy providers.

The updates and modernizations to The Occupational Therapy Practice Act are as follows:

1. Add References to "Rehabilitation and Habilitation" as Services Provided and Clarify OT's Role in Providing Therapy in Mental and Behavioral Health Settings

-Use American Occupational Therapy Association definition as a model to update the definition of OT practice, adding concepts like rehabilitation and habilitation. The Affordable Care Act mandates that health plans offer rehabilitation and habilitation as covered services for patients. In existing California statute, the definition of "habilitation" includes the use of occupational therapy. Occupational therapists are an essential provider for patients in need of rehabilitation and habilitation services.

- Included in the ACA is also coverage by health plans for behavioral health services, which is meant to encompass both services to persons with developmental disabilities such as autism and persons with a mental illness. Occupational therapy is a very important part of treatment options for these patients. To address the important part OT's play in providing these services, language needs to be added to clarify the role of occupational therapy in mental health and behavioral health services, which they are currently providing to patients in California.

2. Refine Outdated Definitions

-Make general updates to terms and services in the Occupational Therapy Practice Act. For example, modify:

"therapeutic use of purposeful and meaningful goal-directed activities (occupations) which engage the individual's body and mind in meaningful, organized and self-directed actions..." to be more clearly and accurately stated as:

"therapeutic use of occupations, including everyday life activities with individuals, groups, populations or organizations to support participation, performance, and function in roles and situations in home, school, workplace, community, and other settings."

3. Address Language Regarding Referral

- Current statute states, "Occupational therapy services encompass occupational therapy assessment, treatment, education, and consultation with, individuals who have been referred for occupational therapy services subsequent to a diagnosis of disease or disorder...." Many occupational therapists practice independently and although occupational therapy services are commonly received through a referral, a referral is not required to obtain OT services. Deleting "referred" will update the practice act to reflect the modern application of occupational therapy.

4. Clarify Language Regarding Orthotics

- Current statute only defines occupational therapy as being able to "design or fabricate selective temporary orthotic devices." This phrase should be updated, deleting "temporary" and authorizing the general utilization of orthotics where needed.

5. Amend Current Statute Allowing OT Services to be Provided to "Populations" rather than "Social Groups"

-Current statute specifies that "services are provided individually, in groups, or through social groups." Contemporary language would use the term "population(s)" to refer to larger groups, rather than "social group." The 2014 revision of the Occupational Therapy Practice Framework states, "The clients of occupational therapy are typically classified as *persons* (including those involved in care of a client), *groups* (collectives of individuals, e.g., families, workers, students, communities), and *populations* (collectives of groups of individuals living in a similar locale—e.g., city, state, or country—or sharing the same or like characteristics or concerns)." When working with a group or population, occupational therapy practitioners consider the collective occupational performance abilities of the members. As the modern practice of occupational therapy is evolving to meet the changing needs of society, viewing groups of individuals as ***populations*** will allow for a broader spectrum of needs to be served, inclusive of wellness, prevention and healthy interaction.

6. Make Revisions Recommended by the California Board of Occupational Therapy

During the 2017 California Board of Occupational Therapy sunset review process there were several recommendations made by the board to update the OT Practice Act. Two of those recommendations are currently being addressed.

The first is to amend B&P Code Section 2570.20 section (a) to remove the requirement that the board "approve the examinations" for licensure. The Board no longer undertakes this function. Also, to amend B&P Code Section 2570.20 section (b) to address the authority granted the board to make regulatory changes that could effectuate the chapter governing the practice of occupational therapy. The change to section (b) is consistent with the language currently in the Physical Therapy Practice Act found in B&P Code Section 2615.

This second CBOT proposal is to amend B&P Code Section 8659 to include occupational therapists in the list of medical professionals that are granted immunity from civil damages for services provided

during a state of war, state of emergency, or during a disaster, except in a case of a willful act or omission of the practitioner.

7. Address Burdensome "Advance Practice" Certification Requirements

Replace the current process for reviewing and approving advance practice requirements to be replaced with an attestation requirement that allows for entry level course content and training to count towards certification. Also, add language that compliance enforcement by the California Board of Occupational Therapy would be achieved through a random audit of attestations. Current entry level occupational therapy education and experience requirements already cover core content related to hand therapy, physical agent modalities and swallowing interventions. Requiring that all education be post-professional is redundant. AOTA and OTAC members report that the current application process is burdensome and unnecessary. We believe that the process could be replaced with attestation requirements that would be subject to random audit by the Board to assure compliance.

8. Review and Revise Licensure Renewal/Continuing Competence Requirements

-Add definition for "continuing competence" to mean: "a dynamic and multidimensional process in which the occupational therapist and occupational therapy assistant develop and maintain the knowledge, performance skills, interpersonal abilities, critical reasoning, and ethical reasoning skills necessary to perform current and future roles and responsibilities within the profession."

-Currently the board may by rule establish and require the satisfactory completion of continuing competence requirements as a condition of renewal of a license. We believe that this definition will help guide refinement of current rules. Further, we believe that the statute should be amended to allow for only a portion of continuing competence requirements to be fulfilled through competency assessment performed within the context of a broader professional development plan.

9. Modify Post-Professional Requirements and Revise Licensure Requirements with Respect to Coursework

-Current statute requires both the courses and the education and training for certain post-professional designations to be approved by the Board. Since the origination of the occupational therapy practice act, many occupational therapists are obtaining this education and training as part of their college coursework. In addition, Board approval of all courses for advance practice is cumbersome and time consuming. Modifications to the post-professional requirements for OT should be made to remove the burden from the Board and provide more flexibility for OT's to obtain the education and training for the "advance practice" designations within their college coursework

-OT's are among the range of qualified providers who provide therapy services to individuals with physical conditions and mental illnesses to help them carry out necessary tasks. OTAC believes the statutory changes outlined above will ensure OT's are able to practice to the full extent of their education and training, which is especially critical as the state works to increase access to mental health care for those in need.

Proposal to Revise OT Practice Act

- Revise definition for "practice of occupational therapy"
  - Use AOTA definition as a model, for exam, adding concepts like habilitation and rehabilitation
  - add language to clarify role of OT in MH/BH
- Refine outdated definitions
- address language regarding referral
- clarify language regarding orthotics
- add that services may be provided to populations
- Included revisions suggested by CBOT
- Address advanced practice requirements
- Review and revise licensure renewal/continuing competence requirements
- Review and revise licensure requirements – current law includes prescriptive language regarding coursework (2570.6(b)(2) and (3))

DRAFT

BUSINESS AND PROFESSIONS CODE - BPC

CHAPTER 5.6. Occupational Therapy [2570 - 2571]

2570.

This chapter may be cited as the Occupational Therapy Practice Act.

2570.1.

The Legislature finds and declares that the practice of occupational therapy in California affects the public health, safety, and welfare and there is a necessity for that practice to be subject to regulation and control.

2570.2.

As used in this chapter, unless the context requires otherwise:

(a) "Appropriate supervision of an aide" means that the responsible occupational therapist or occupational therapy assistant shall provide direct in-sight supervision when the aide is providing delegated client-related tasks and shall be readily available at all times to provide advice or instruction to the aide. The occupational therapist or occupational therapy assistant is responsible for documenting the client's record concerning the delegated client-related tasks performed by the aide.

(b) "Aide" means an individual who provides supportive services to an occupational therapist ***or occupational therapy assistant*** and who is trained by an occupational therapist ***or occupational therapy assistant*** to perform, under appropriate supervision, delegated, selected client and nonclient-related tasks for which the aide has demonstrated competency. An occupational therapist ***or occupational therapy assistant*** licensed pursuant to this chapter may utilize the services of one aide engaged in patient-related tasks to assist the occupational therapist ***or occupational therapy assistant*** in his or her practice of occupational therapy. ***The occupational therapist is responsible for the overall use and actions of the aide.***

(c) "Association" means the Occupational Therapy Association of California or a similarly constituted organization representing occupational therapists in this state.

(d) "Board" means the California Board of Occupational Therapy.

(xx) "Continuing Competence" means a dynamic and multidimensional process in which the occupational therapist and occupational therapy assistant develop and maintain the knowledge, performance skills, interpersonal abilities, critical reasoning, and ethical reasoning skills necessary to perform current and future roles and responsibilities within the profession.

(e) "Examination" means an entry level examination ~~certification~~ for occupational therapists and occupational therapy assistants administered by the National Board for Certification in Occupational Therapy or by another nationally recognized credentialing body.

(f) "Good standing" means that the person has a current, valid license to practice occupational therapy or assist in the practice of occupational therapy and has not been disciplined by the recognized professional certifying or standard-setting body within five years prior to application or renewal of the person's license.

(g) "Occupational therapist" means an individual who meets the minimum education requirements specified in Section 2570.6 and is licensed pursuant to the provisions of this chapter and whose license is in good standing as determined by the board to practice occupational therapy under this chapter. ~~Only the occupational therapist is responsible for the occupational therapy assessment of a client, and the development of an occupational therapy plan of treatment.~~ ***The occupational therapist directs the evaluation process and develops the intervention plan.***

(h) "Occupational therapy assistant" means an individual who is licensed pursuant to the provisions of this chapter, who is in good standing as determined by the board, and based thereon, who is qualified to assist in the practice of occupational therapy under this chapter, and who works under the appropriate supervision of a licensed occupational therapist.

(i) "Occupational therapy services" means the services of an occupational therapist or the services of an occupational therapy assistant under the appropriate supervision of an occupational therapist.

(j) "Person" means an individual, partnership, unincorporated organization, or corporation.

(k) "Practice of occupational therapy" means the therapeutic use of ~~purposeful and meaningful goal-directed activities (occupations) which engage the individual's body and mind in meaningful, organized, and self-directed actions that maximize independence, prevent or minimize disability, and maintain health~~ ***occupations, including everyday life activities with individuals, groups, populations, or organizations to support participation, performance, and function in roles and situations in home, school, workplace, community, and other settings. Occupational therapy services are provided for habilitation, rehabilitation, and the promotion of health and wellness to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction.*** Occupational therapy services encompass occupational therapy assessment, treatment, education of, and consultation. ~~with, individuals who have been referred for occupational therapy services subsequent to diagnosis of disease or disorder (or who are receiving occupational therapy services as part of an Individualized Education Plan (IEP) pursuant to the federal Individuals with Disabilities Education~~

~~Act (IDEA))~~ ***Occupational therapy addresses the physical, cognitive, psychosocial, sensory-perceptual, and other aspects of performance in a variety of contexts and environments to support engagement in occupations that affect physical and mental health, well-being, and quality of life.*** Occupational therapy assessment identifies performance abilities and limitations that are necessary for self-maintenance, learning, work, and other similar meaningful activities. Occupational therapy treatment is focused on developing, improving, or restoring functional daily living skills, compensating for and preventing dysfunction, or minimizing disability. ***Through engagement in everyday activities, occupational therapy practitioners promote mental health and support functioning in people with or at risk of experiencing a range of mental health disorders, including psychiatric, behavioral and substance abuse.*** Occupational therapy techniques that are used for treatment involve teaching activities of daily living (excluding speech-language skills); designing or fabricating ~~selective temporary~~ orthotic devices, and applying or training in the use of assistive technology or orthotic and prosthetic devices (excluding gait training). Occupational therapy consultation provides expert advice to enhance function and quality of life. Consultation or treatment may involve modification of tasks or environments to allow an individual to achieve maximum independence. Services are provided individually, in groups, or ~~through social groups~~ ***populations***.

(l) "Hand therapy" is the art and science of rehabilitation of the hand, wrist, and forearm requiring comprehensive knowledge of the upper extremity and specialized skills in assessment and treatment to prevent dysfunction, restore function, or reverse the advancement of pathology. This definition is not intended to prevent an occupational therapist practicing hand therapy from providing other occupational therapy services authorized under this act in conjunction with hand therapy.

(m) "Physical agent modalities" means techniques that produce a response in soft tissue through the use of light, water, temperature, sound, or electricity. These techniques are used as adjunctive methods in conjunction with, or in immediate preparation for, occupational therapy services.

2570.3.

(a) No person shall practice occupational therapy or hold himself or herself out as an occupational therapist or as being able to practice occupational therapy, or to render occupational therapy services in this state unless he or she is licensed as an occupational therapist under the provisions of this chapter. No person shall hold himself or herself out as an occupational therapy assistant or work as an occupational therapy assistant under the supervision of an occupational therapist unless he or she is licensed as an occupational therapy assistant under the provisions of this chapter.

(b) Only an individual may be licensed under this chapter.

(c) Nothing in this chapter shall be construed as authorizing an occupational therapist to practice physical therapy, as defined in Section 2620; speech-language pathology or audiology, as defined in Section 2530.2; nursing, as defined in Section 2725; psychology, as defined in Section 2903; or spinal manipulation or other forms of healing, except as authorized by this section.

(d) An occupational therapist may provide advanced practices if the therapist has the knowledge, skill, and ability to do so and has ~~demonstrated to the satisfaction of~~ ***attested to*** the board that he or she has met educational training and competency requirements. These advanced practices include the following:

(1) Hand therapy.

(2) The use of physical agent modalities.

(3) Swallowing assessment, evaluation, or intervention.

(e) An occupational therapist providing hand therapy services shall demonstrate to the satisfaction of the board that he or she has completed ~~post professional~~ education and training in all of the following areas:

(1) Anatomy of the upper extremity and how it is altered by pathology.

(2) Histology as it relates to tissue healing and the effects of immobilization and mobilization on connective tissue.

(3) Muscle, sensory, vascular, and connective tissue physiology.

(4) Kinesiology of the upper extremity, such as biomechanical principles of pulleys, intrinsic and extrinsic muscle function, internal forces of muscles, and the effects of external forces.

(5) The effects of temperature and electrical currents on nerve and connective tissue.

(6) Surgical procedures of the upper extremity and their postoperative course.

(f) An occupational therapist using physical agent modalities shall demonstrate to the satisfaction of the board that he or she has completed ~~post professional~~ education and training in all of the following areas:

(1) Anatomy and physiology of muscle, sensory, vascular, and connective tissue in response to the application of physical agent modalities.

(2) Principles of chemistry and physics related to the selected modality.

(3) Physiological, neurophysiological, and electrophysiological changes that occur as a result of the application of a modality.

(4) Guidelines for the preparation of the patient, including education about the process and possible outcomes of treatment.

(5) Safety rules and precautions related to the selected modality.

(6) Methods for documenting immediate and long-term effects of treatment.

(7) Characteristics of the equipment, including safe operation, adjustment, indications of malfunction, and care.

(g) An occupational therapist in the process of achieving the education, training, and competency requirements established by the board for providing hand therapy or using physical agent modalities may practice these techniques under the supervision of an occupational therapist who has already met the requirements established by the board, a physical therapist, or a physician and surgeon.

(h) The board shall develop and adopt regulations regarding the educational training and competency requirements for advanced practices in collaboration with the Speech-Language Pathology and Audiology Board, the Board of Registered Nursing, and the Physical Therapy Board of California.

(i) Nothing in this chapter shall be construed as authorizing an occupational therapist to seek reimbursement for services other than for the practice of occupational therapy as defined in this chapter.

(j) "Supervision of an occupational therapy assistant" means that the responsible occupational therapist shall at all times be responsible for all occupational therapy services provided to the client. The occupational therapist who is responsible for appropriate supervision shall formulate and document in each client's record, with his or her signature, the goals and plan for that client, and shall make sure that the occupational therapy assistant assigned to that client functions under appropriate supervision. As part of the responsible occupational therapist's appropriate supervision, he or she shall conduct at least weekly review and inspection of all aspects of occupational therapy services by the occupational therapy assistant.

(1) The supervising occupational therapist has the continuing responsibility to follow the progress of each patient, provide direct care to the patient, and to assure that the occupational therapy assistant does not function autonomously.

(2) An occupational therapist shall not supervise more occupational therapy assistants, at any one time, than can be appropriately supervised in the opinion of the board. ~~Two~~ ***Three*** occupational therapy assistants shall be the maximum number of occupational therapy assistants supervised by an occupational therapist at any one time, but the board may permit the supervision of a greater number by an occupational therapist if, in the opinion of the board, there would be adequate supervision and the public's health and safety would be

served. In no case shall the total number of occupational therapy assistants exceed twice the number of occupational therapists regularly employed by a facility at any one time.

(k) The amendments to subdivisions (d), (e), (f), and (g) relating to advanced practices, that are made by the act adding this subdivision, shall become operative no later than January 1, 2004, or on the date the board adopts regulations pursuant to subdivision (h), whichever first occurs.

2570.4.

Nothing in this chapter shall be construed as preventing or restricting the practice, services, or activities of any of the following persons:

(a) Any person licensed or otherwise recognized in this state by any other law or regulation when that person is engaged in the profession or occupation for which he or she is licensed or otherwise recognized.

(b) Any person pursuing a supervised course of study leading to a degree or certificate in occupational therapy at an accredited educational program, if the person is designated by a title that clearly indicates his or her status as a student or trainee.

(c) Any person fulfilling the supervised fieldwork experience requirements of subdivision (c) of Section 2570.6, if the experience constitutes a part of the experience necessary to meet the requirement of that provision.

(d) Any person performing occupational therapy services in the state if all of the following apply:

(1) An application for licensure as an occupational therapist or an occupational therapy assistant has been filed with the board pursuant to Section 2570.6 and an application for a license in this state has not been previously denied.

(2) The person possesses a current, active, and nonrestricted license to practice occupational therapy under the laws of another state that the board determines has licensure requirements at least as stringent as the requirements of this chapter.

(3) Occupational therapy services are performed in association with an occupational therapist licensed under this chapter, and for no more than 60 days from the date on which the application for licensure was filed with the board.

(e) Any person employed as an aide subject to the supervision requirements of this section.

2570.5.

(a) A limited permit may be granted to any person who has completed the education and experience requirements of this chapter.

(b) A person who meets the qualifications to be admitted to the examination for licensure under this chapter and is waiting to take the examination or awaiting the announcement of the results of the examination, according to the application requirements for a limited permit, may practice as an occupational therapist or as an occupational therapy assistant under the direction and appropriate supervision of an occupational therapist duly licensed under this chapter. If that person fails to pass the examination during the initial eligibility period, all privileges under this section shall automatically cease upon due notice to the applicant of that failure and may not be renewed.

(c) A limited permit shall be subject to other requirements set forth in rules adopted by the board.

2570.6.

An applicant applying for a license as an occupational therapist as an occupational therapy assistant shall file with the board a written application provided by the board, showing to the satisfaction of the board that he or she meets all of the following requirements:

(a) That the applicant is in good standing and has not committed acts or crimes constituting grounds for denial of a license under Section 480.

(b) (1) That the applicant has successfully completed the academic requirements of an educational program for occupational therapists or occupational therapy assistants that is approved by the board and accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE), or accredited or approved by the American Occupational Therapy Association's (AOTA) predecessor organization, or approved by AOTA's Career Mobility Program.

(2) The curriculum of an educational program for occupational therapists shall contain the content required by the ACOTE accreditation standards, or as approved by AOTA's predecessor organization, or as approved by AOTA's Career Mobility Program~~, **including all of the following subjects:**~~

~~**(A) Biological, behavioral, and health sciences.**~~

~~**(B) Structure and function of the human body, including anatomy, kinesiology, physiology, and the neurosciences.**~~

~~**(C) Human development throughout the lifespan.**~~

~~**(D) Human behavior in the context of sociocultural systems.**~~

~~**(E) Etiology, clinical course, management, and prognosis of disease processes and traumatic injuries, and the effects of those conditions on human functioning.**~~

~~**(F) Occupational therapy theory, practice, and processes.**~~

~~(3) The curriculum of an educational program for occupational therapy assistants shall contain the content required by the ACOTE accreditation standards, or as approved or accredited by AOTA's predecessor organization, including all of the following subjects:~~

~~(A) Biological, behavioral, and health sciences.~~

~~(B) Structure and function of the normal human body.~~

~~(C) Human development.~~

~~(D) Conditions commonly referred to occupational therapists.~~

~~(E) Occupational therapy principles and skills.~~

(c) (1) For an applicant who is a graduate of an occupational therapy or occupational therapy assistant educational program who is unable to provide evidence of having met the requirements of paragraph (2) or (3) of subdivision (b), he or she may demonstrate passage of the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association, as evidence of having successfully satisfied the requirements of paragraph (2) or (3) of subdivision (b).

(2) For an applicant who completed AOTA's Career Mobility Program, he or she shall demonstrate participation in the program and passage of the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association, as evidence of having successfully satisfied the requirements of paragraphs (1) and (2) of subdivision (b).

(d) That the applicant has successfully completed a period of supervised fieldwork experience approved by the board and arranged by a recognized educational institution where he or she met the academic requirements of subdivision (b) or (c) or arranged by a nationally recognized professional association. The fieldwork requirements for applicants applying for licensure as an occupational therapist or certification as an occupational therapy assistant shall be consistent with the requirements of the ACOTE accreditation standards, or AOTA's predecessor organization, or AOTA's Career Mobility Program, that were in effect when the applicant completed his or her educational program.

(e) That the applicant has passed an examination as provided in Section 2570.7.

(f) That the applicant, at the time of application, is a person over 18 years of age, is not addicted to alcohol or any controlled substance, and has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

2570.7.

(a) An applicant who has satisfied the requirements of Section 2570.6 may apply for examination for licensure in a manner prescribed by the board. Subject to the provisions of this chapter, an applicant who fails an examination may apply for reexamination.

(b) Each applicant for licensure shall successfully complete the entry level ~~certification~~ examination for occupational therapists or occupational therapy assistants, such as the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association. The examination shall be appropriately validated. Each applicant shall be examined by written examination to test his or her knowledge of the basic and clinical sciences relating to occupational therapy, occupational therapy techniques and methods, and any other subjects that the board may require to determine the applicant's fitness to practice under this chapter.

(c) Applicants for licensure shall be examined at a time and place and under that supervision as the board may require.

2570.8.

For the purposes of verifying a license issued under this chapter, a person may rely on the licensure information posted on the board's Internet Web site, which includes the issuance and expiration dates of a license issued by the board.

2570.9.

The board shall issue a license to any applicant who meets the requirements of this chapter, including the payment of the prescribed licensure or renewal fee, and who meets any other requirement in accordance with applicable state law.

2570.10.

(a) Any license issued under this chapter shall be subject to renewal as prescribed by the board and shall expire unless renewed in that manner. The board may provide for the late renewal of a license as provided for in Section 163.5.

(b) In addition to any other qualifications and requirements for licensure renewal, the board may by rule establish and require the satisfactory completion of continuing ~~competency~~ ***competence*** requirements as a condition of renewal of a license. ***A portion of continuing competence requirements maybe fulfilled through competency assessment activities performed within the context of a broader professional development plan.***

2570.11.

Upon a written request, the board may grant inactive status to an occupational therapist or occupational therapy assistant who is in good standing, who meets the requirements of Section 462.

2570.13.

(a) Consistent with this section, subdivisions (a), (b), and (c) of Section 2570.2, and accepted professional standards, the board shall adopt rules necessary to assure appropriate supervision of occupational therapy assistants and aides.

(b) An occupational therapy assistant may practice only under the supervision of an occupational therapist who is authorized to practice occupational therapy in this state.

(c) An aide providing delegated, client-related supportive services shall require continuous and direct supervision by an occupational therapist or occupational therapy assistant.

2570.14.

An initial applicant who has not been actively engaged in the practice of occupational therapy within the past five years shall provide to the board, in addition to the requirements for licensure under Section 2570.6, any of the following:

(a) Evidence of continued competency as referred to in subdivision (b) of Section 2570.10 for the previous two-year period.

(b) Evidence of having completed the entry-level ~~certification~~ examination as described in subdivision (b) of Section 2570.7 within the previous two-year period.

2570.15.

Occupational therapists and occupational therapy assistants trained outside of the United States and its possessions shall be required to satisfy the examination requirements of Section 2570.7. The board shall require that these applicants have completed educational and supervised fieldwork requirements substantially equal to those contained in Section 2570.6, before taking the examination.

2570.16.

Initial license and renewal fees shall be established by the board in an amount that does not exceed a ceiling of one hundred fifty dollars ($150) per year. The board shall establish the following additional fees:

(a) An application fee not to exceed fifty dollars ($50).

(b) A late renewal fee as provided for in Section 2570.10.

(c) A limited permit fee.

(d) A fee to collect fingerprints for criminal history record checks.

2570.17.

(a) The board shall issue, upon application and payment of a twenty-five dollar ($25) fee, a retired license to an occupational therapist or an occupational therapy assistant who holds a license that is current and active, or capable of being renewed pursuant to Section 2570.10, and whose license is not suspended, revoked, or otherwise restricted by the board or subject to discipline under this chapter.

(b) The holder of a retired license issued pursuant to this section shall not engage in any activity for which an active license is required. An occupational therapist holding a retired license shall be permitted to use the title "occupational therapist, retired" or "retired occupational therapist." An occupational therapy assistant holding a retired license shall be permitted to use the title "occupational therapy assistant, retired" or "retired occupational therapy assistant." The designation of retired shall not be abbreviated in any way.

(c) The holder of a retired license shall not be required to renew that license.

(d) In order for the holder of a retired license issued pursuant to this section to restore his or her license, he or she shall comply with Section 2570.14.

2570.18.

(a) A person shall not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice occupational therapy in this state, unless authorized to practice occupational therapy under this chapter.

(b) Unless licensed to practice as an occupational therapist under this chapter, a person may not use the professional abbreviations "O.T.," ~~**"O.T.R.,"**~~ ***"O.T.D.,"*** or ~~**"O.T.R./L.,"**~~ or "Occupational Therapist," or ~~**"Occupational Therapist Registered,"**~~ any other words, letters, or symbols with the intent to represent that the person practices or is authorized to practice occupational therapy.

~~**(c) A licensee who has earned a doctoral degree in occupational therapy (OTD) or, after adoption of the regulations described in subdivision (e), a doctoral degree in a related area of practice or study may do the following:**~~

~~**(1) In a written communication, use the initials OTD, DrPH, PhD, or EdD, as applicable, following the licensee's name.**~~

~~(2) In a written communication, use the title "Doctor" or the abbreviation "Dr." preceding the licensee's name, if the licensee's name is immediately followed by an unabbreviated specification of the applicable doctoral degree held by the licensee.~~

~~(3) In a spoken communication while engaged in the practice of occupational therapy, use the title "Doctor" preceding the licensee's name, if the licensee specifies that he or she is an occupational therapy practitioner.~~

~~(d) A doctoral degree described in subdivision (c) shall be granted by an institution and program accredited by the Western Association of Schools and Colleges, the Accreditation Council on Occupational Therapy Education, or by an accrediting agency recognized by the National Commission on Accrediting or the United States Department of Education that the board determines is equivalent to the Western Association of Schools and Colleges.~~

~~(e) The board shall define, by regulation, the doctoral degrees that are in a related area of practice or study for purposes of subdivision (c).~~

~~(f)~~ *(c)* Unless licensed to assist in the practice of occupational therapy as an occupational therapy assistant under this chapter, a person may not use the professional abbreviations "O.T.A.," "O.T.A/L.," ~~"C.O.T.A.," "C.O.T.A./L.,"~~ or "Occupational Therapy Assistant," "Licensed Occupational Therapy Assistant," or any other words, letters, or symbols, with the intent to represent that the person assists in, or is authorized to assist in, the practice of occupational therapy as an occupational therapy assistant.

~~(g)~~ *(d)* The unauthorized practice or representation as an occupational therapist or as an occupational therapy assistant constitutes an unfair business practice under Section 17200 and false and misleading advertising under Section 17500.

2570.185.

(a) An occupational therapist shall document his or her evaluation, goals, treatment plan, and summary of treatment in the patient record.

(b) An occupational therapy assistant shall document the services provided in the patient record.

(c) Occupational therapists and occupational therapy assistants shall document and sign the patient record legibly.

(d) Patient records shall be maintained for a period of no less than seven years following the discharge of the patient, except that the records of unemancipated minors shall be maintained at least one year after the minor has reached the age of 18 years, and not in any case less than seven years.

2570.19.

(a) There is hereby created a California Board of Occupational Therapy, hereafter referred to as the board. The board shall enforce and administer this chapter.

(b) The members of the board shall consist of the following:

(1) Three occupational therapists who shall have practiced occupational therapy for five years.

(2) One occupational therapy assistant who shall have assisted in the practice of occupational therapy for five years.

(3) Three public members who shall not be licentiates of the board, of any other board under this division, or of any board referred to in Section 1000 or 3600.

(c) The Governor shall appoint the three occupational therapists and one occupational therapy assistant to be members of the board. The Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall each appoint a public member. Not more than one member of the board shall be appointed from the full-time faculty of any university, college, or other educational institution.

(d) All members shall be residents of California at the time of their appointment. The occupational therapist and occupational therapy assistant members shall have been engaged in rendering occupational therapy services to the public, teaching, or research in occupational therapy for at least five years preceding their appointments.

(e) The public members may not be or have ever been occupational therapists or occupational therapy assistants or in training to become occupational therapists or occupational therapy assistants. The public members may not be related to, or have a household member who is, an occupational therapist or an occupational therapy assistant, and may not have had, within two years of the appointment, a substantial financial interest in a person regulated by the board.

(f) The Governor shall appoint two board members for a term of one year, two board members for a term of two years, and one board member for a term of three years. Appointments made thereafter shall be for four-year terms, but no person shall be appointed to serve more than two consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed by this section. Vacancies shall be filled by appointment for the unexpired term. The board shall annually elect one of its members as president.

(g) The board shall meet and hold at least one regular meeting annually in the Cities of Sacramento, Los Angeles, and San Francisco. The board may convene from time to time

until its business is concluded. Special meetings of the board may be held at any time and place designated by the board.

(h) Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(i) Members of the board shall receive no compensation for their services, but shall be entitled to reasonable travel and other expenses incurred in the execution of their powers and duties in accordance with Section 103.

(j) The appointing power shall have the power to remove any member of the board from office for neglect of any duty imposed by state law, for incompetency, or for unprofessional or dishonorable conduct.

(k) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

2570.20.

(a) The board shall administer, coordinate, and enforce the provisions of this chapter ***and*** evaluate the qualifications ~~**and approve the examinations**~~ for licensure under this chapter.

(b) The board shall adopt rules in accordance with the Administrative Procedure Act ***necessary to effectuate*** ~~**relating to professional conduct to carry out**~~ the purpose of this chapter~~**, including, but not limited to, rules relating to professional licensure and to the establishment of ethical standards of practice**~~ for persons holding a license to practice occupational therapy or to assist in the practice of occupational therapy in this state.

(c) Proceedings under this chapter shall be conducted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

2570.21.

Subject to Sections 107 and 154, the board may employ an executive officer and other officers and employees

2570.22.

All fees collected by the board shall be paid into the State Treasury and shall be credited to the Occupational Therapy Fund which is hereby created. The money in the fund shall be available, upon appropriation by the Legislature, for expenditure by the board to defray its expenses and to otherwise administer this chapter.

(Added by Stats. 2000, Ch. 697, Sec. 3. Effective January 1, 2001.)

2570.23.

Any person who violates Section 2570.3 is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five thousand dollars ($5,000), or by imprisonment of not more than one year in a county jail, or by both that fine and imprisonment.

2570.24.

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are declared to be severable.

2570.25.

Protection of the public shall be the highest priority for the California Board of Occupational Therapy 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.

2570.26.

(a) The board may, after a hearing, deny, suspend, revoke, or place on probation a license, inactive license, or limited permit.

(b) As used in this chapter, "license" includes a license, limited permit, or any other authorization to engage in practice regulated by this chapter.

(c) The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

2570.27.

(a) The board may discipline a licensee by any or a combination of the following methods:

(1) Placing the license on probation with terms and conditions.

(2) Suspending the license and the right to practice occupational therapy for a period not to exceed one year.

(3) Revoking the license.

(4) Suspending or staying the disciplinary order, or portions of it, with or without conditions.

(5) Taking other action as the board, in its discretion, deems proper.

(b) The board may issue an initial license on probation, with specific terms and conditions, to any applicant who has violated any provision of this chapter or the regulations adopted pursuant to it, but who has met all other requirements for licensure.

2570.28.

The board may deny or discipline a licensee for any of the following:

(a) Unprofessional conduct, including, but not limited to, the following:

(1) Incompetence or gross negligence in carrying out usual occupational therapy functions.

(2) Repeated similar negligent acts in carrying out usual occupational therapy functions.

(3) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000), in which event a certified copy of the record of conviction shall be conclusive evidence thereof.

(4) The use of advertising relating to occupational therapy which violates Section 17500.

(5) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a licensee by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision, order, or judgment shall be conclusive evidence thereof.

(b) Procuring a license by fraud, misrepresentation, or mistake.

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or term of this chapter or any regulation adopted pursuant to this chapter.

(d) Making or giving any false statement or information in connection with the application for issuance or renewal of a license.

(e) Conviction of a crime or of any offense substantially related to the qualifications, functions, or duties of a licensee, in which event the record of the conviction shall be conclusive evidence thereof.

(f) Impersonating an applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license.

(g) Impersonating a licensed practitioner, or permitting or allowing another unlicensed person to use a license.

(h) Committing any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a licensee.

(i) Committing any act punishable as a sexually related crime, if that act is substantially related to the qualifications, functions, or duties of a licensee, in which event a certified copy of the record of conviction shall be conclusive evidence thereof.

(j) Using excessive force upon or mistreating or abusing any patient. For the purposes of this subdivision, "excessive force" means force clearly in excess of that which would normally be applied in similar clinical circumstances.

(k) Falsifying or making grossly incorrect, grossly inconsistent, or unintelligible entries in a patient or hospital record or any other record.

(l) Changing the prescription of a physician and surgeon or falsifying verbal or written orders for treatment or a diagnostic regime received, whether or not that action resulted in actual patient harm.

(m) Failing to maintain confidentiality of patient medical information, except as disclosure is otherwise permitted or required by law.

(n) Delegating to an unlicensed employee or person a service that requires the knowledge, skills, abilities, or judgment of a licensee.

(o) Committing any act that would be grounds for denial of a license under Section 480.

(p) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of infectious diseases from licensee to patient, from patient to patient, or from patient to licensee.

(1) In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 63001) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary to encourage appropriate consistency in the implementation of this subdivision, the board shall consult with the Medical Board of California, the Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians.

(2) The board shall seek to ensure that licensees are informed of their responsibility to minimize the risk of transmission of infectious diseases from health care provider to patient, from patient to patient, and from patient to health care provider, and are informed of the most recent scientifically recognized safeguards for minimizing the risks of transmission.

2570.29.

In addition to other acts constituting unprofessional conduct within the meaning of this chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or, except as directed by a licensed physician and surgeon, dentist, optometrist, or podiatrist, to administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use to an extent or in a manner dangerous or injurious to himself or herself, to any other person, or to the public, or that impairs his or her ability to conduct with safety to the public the practice authorized by his or her license, of any of the following:

(1) A controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(2) A dangerous drug or dangerous device as defined in Section 4022.

(3) Alcoholic beverages.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

(d) Be committed or confined by a court of competent jurisdiction for intemperate use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of the commitment or confinement.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital or patient record, or any other record, pertaining to the substances described in subdivision (a) of this section.

2570.30.

The board shall retain jurisdiction to proceed with any investigation, action or disciplinary proceeding against a license, or to render a decision suspending or revoking a license, regardless of the expiration, lapse, or suspension of the license by operation of law, by order or decision of the board or a court of law, or by the voluntary surrender of a license by the licensee.

2570.31.

If a license is suspended, the holder may not practice occupational therapy during the term of suspension. Upon the expiration of the term of suspension, the license shall be reinstated and the holder entitled to resume practice under any remaining terms of the discipline, unless it is established to the satisfaction of the board that the holder of the license practiced in this state during the term of suspension. In this event, the board may, after a hearing on this issue alone, revoke the license.

2570.32.

(a) A holder of a license that has been revoked, suspended, or placed on probation, may petition the board for reinstatement or modification of a penalty, including reduction or termination of probation, after a period not less than the applicable following minimum period has elapsed from either the effective date of the decision ordering that disciplinary action, or, if the order of the board or any portion of it was stayed, from the date the disciplinary action was actually implemented in its entirety. The minimum periods that shall elapse prior to a petition are as follows:

(1) For a license that was revoked for any reason other than mental or physical illness, at least three years.

(2) For early termination of probation scheduled for three or more years, at least two years.

(3) For modification of a penalty, reinstatement of a license revoked for mental or physical illness, or termination of probation scheduled for less than three years, at least one year.

(4) The board may, in its discretion, specify in its disciplinary order a lesser period of time, provided that the period shall not be less than one year.

(b) The petition submitted shall contain any information required by the board, which may include a current set of fingerprints accompanied by the fingerprinting fee.

(c) The board shall give notice to the Attorney General of the filing of the petition. The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition, and an opportunity to present both oral and documentary evidence and argument to the board. The petitioner shall at all times have the burden of proof to establish by clear and convincing evidence that he or she is entitled to the relief sought in the petition.

(d) The board itself shall hear the petition and the administrative law judge shall prepare a written decision setting forth the reasons supporting the decision.

(e) The board may grant or deny the petition, or may impose any terms and conditions that it reasonably deems appropriate as a condition of reinstatement or reduction of penalty.

(f) The board may refuse to consider a petition while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole or subject to an order of registration pursuant to Section 290 of the Penal Code.

(g) No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner.

2570.36.

If a licensee has knowledge that an applicant or licensee may be in violation of, or has violated, any of the statutes or regulations administered by the board, the licensee shall report this information to the board in writing and shall cooperate with the board in providing information or assistance as may be required.

2571.

(a) An occupational therapist licensed pursuant to this chapter and approved by the board in the use of physical agent modalities may apply topical medications prescribed by the patient's physician and surgeon, certified nurse-midwife pursuant to Section 2746.51, nurse practitioner pursuant to Section 2836.1, or physician assistant pursuant to Section 3502.1, if the licensee complies with regulations adopted by the board pursuant to this section.

(b) The board shall adopt regulations implementing this section, after meeting and conferring with the Medical Board of California, the California State Board of Pharmacy, and the Physical Therapy Board of California, specifying those topical medications applicable to the practice of occupational therapy and protocols for their use.

(c) Nothing in this section shall be construed to authorize an occupational therapist to prescribe medications.

Add new language to Business & Professions Code Section 8659

This proposal would include occupational therapists in the list of medical professionals that are granted immunity from civil damages for services provided during a state of war, state of emergency, or during a disaster, except in a case of a willful act or omission of the practitioner.

(a) Any physician or surgeon (whether licensed in this state or any other state), hospital, pharmacist, respiratory care practitioner, nurse, occupational therapist, or dentist who renders services during any state of war emergency, a state of emergency, or a local emergency at the express or implied request of any responsible state or local official or agency shall have no liability for any injury sustained by any person by reason of those services, regardless of how or under what circumstances or by what cause those injuries are sustained; provided, however, that the immunity herein granted shall not apply in the event of a willful act or omission.

(b) Any veterinarian or registered veterinary technician who renders services during any state of war emergency, a state of emergency, or a local emergency at the express or implied request of any responsible state or local official or agency shall have no liability for any injury sustained by any animal by reason of those services, regardless of how or under what circumstances or by what cause those injuries are sustained; provided, however, that the immunity herein granted shall not apply in the event of a willful act or omission.