

## **AGENDA ITEM 19**

**Discussion and consideration of talking a position on:**

- a) Assembly Bill 2671 (Assembly Committee on Business and Professions): Occupational therapy**
- b) Senate Bill 1237 (Newman), Licenses: military service.**

**Assembly Bill 2671 can be found at:  
[leginfo.legislature.ca.gov](http://leginfo.legislature.ca.gov)**



July 31, 2022

The Honorable Anthony J. Portantino  
Chair, Senate Appropriations Committee  
State Capitol, Room 412  
Sacramento, CA 95814

**RE: Assembly Bill 2671 Occupational Therapy – SUPPORT**

Dear Chairman Portantino:

On behalf of the California Board of Occupational Therapy (Board), I am writing to express the Board’s support of Assembly Bill (AB) 2671, as amended on June 13, 2022, which will extend the operation of the Board and allow occupational therapy practitioners to own professional corporations.

The Board protects consumers through the regulation of the occupational therapy profession by the appropriate licensure of qualified individuals and enforcement of the occupational therapy practice act.

The Board appreciates the extension of the Board’s sunset date and supports the amendment to the Corporations Code which added occupational therapy practitioners to the list of healthcare licensees authorized to own a professional corporation and adding occupational therapists to the list of licensees authorized as employees, shareholders and officers of medical corporations. The Board appreciates the addition of new section 2572 to the Business and Professions Code (BPC), which authorizes the regulation of occupational therapy corporations

For the purpose of streamlining various policies and procedures that applies to both occupational therapists and occupational therapy assistants, the Board requests the definition of *occupational therapy practitioner* be added to BPC section 2570.2, as follows:

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

(m) “Occupational therapy practitioner” means an occupational therapist or an occupational therapy assistant.

~~(n)~~ (n) “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.

~~(A)~~ (O) “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.

To ensure transparency and appropriate oversight of occupational therapy corporations, the Board requests the following amendments to be added to Section 2572:

#### Unprofessional Conduct - Licensee

It shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate any provision or term of this article, the Moscone-Knox Professional Corporation Act, or any regulations duly adopted under those laws.

#### Unprofessional Conduct - Corporation

An occupational therapy corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute or regulation, now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes and regulations to the same extent as a person holding a license under this chapter.

#### Directors and Officers

Except as provided in Section 13403 of the Corporations Code, each shareholder, director and officer of an occupational therapy corporation, except an assistant secretary and an assistant treasurer, shall be a licensed person as defined in Section 13401 of the Corporations Code.

#### Income

The income of an occupational therapy corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in Section 13401 of the Corporations Code, shall not in any manner accrue to the benefit of such shareholder or his or her shares in the occupational therapy corporation.

#### Regulations

The board may adopt and enforce regulations to carry out the purposes and objectives of this article, including regulations requiring (a) that the bylaws of an occupational therapy corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of the corporation within the time as the regulations may provide, and (b) that an occupational therapy corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

To address the issues of increased workload and costs to the Board associated with issuing certificates of registration to occupational therapy corporations, the Board requests an exemption from this by amending Corporations Code Section 13041, as shown below:

As used in this part:

(a) “Professional services” means any type of professional services that may be lawfully

rendered only pursuant to a license, certification, or registration authorized by the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act.

(b) "Professional corporation" means a corporation organized under the General Corporation Law or pursuant to subdivision (b) of Section 13406 that is engaged in rendering professional services in a single profession, except as otherwise authorized in Section 13401.5, pursuant to a certificate of registration issued by the governmental agency regulating the profession as herein provided and that in its practice or business designates itself as a professional or other corporation as may be required by statute. However, any professional corporation or foreign professional corporation rendering professional services by persons duly licensed by the Medical Board of California or any examining committee under the jurisdiction of the board, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, the Dental Board of California, the Dental Hygiene Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the California Architects Board, the Court Reporters Board of California, the Board of Behavioral Sciences, the Speech-Language Pathology and Audiology Board, the Board of Registered Nursing, or the State Board of Optometry, or the California Board of Occupational Therapy shall not be required to obtain a certificate of registration in order to render those professional services.

Should you have any questions, please contact me at (916) 248-2178.

Sincerely,

/Signature on file/

HEATHER R. MARTIN  
Executive Officer  
CA Board of Occupational Therapy

cc: Members, Senate Committee on Appropriations  
The Honorable Marc Berman, Chair, and Members, Assembly Committee on  
Business and Professions  
Members, Senate Committee on Business, Professions and Economic  
Development  
Lila Mirrashidi, Deputy Secretary of Business and Consumer Relations  
Business, Consumer Services and Housing Agency  
Amy Wilson, Deputy Secretary of Legislation  
Business, Consumer Services and Housing Agency  
Jennifer Simoes, Deputy Director  
Division of Legislative Affairs, Department of Consumer Affairs  
Members, CA Board of Occupational Therapy  
Alexandria Smith-Davis, Consultant, Senate Business, Professions and Economic  
Development Committee

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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair  
2021 - 2022 Regular Session

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### AB 2671 (Committee on Business and Professions) - Occupational therapy

**Version:** June 13, 2022

**Urgency:** No

**Hearing Date:** August 1, 2022

**Policy Vote:** B., P. & E.D. 13 - 0

**Mandate:** No

**Consultant:** Janelle Miyashiro

**Bill Summary:** AB 2671 is the sunset bill for the California Board of Occupational Therapy and makes changes to the Occupational Therapy Practice Act recommended during the joint sunset review of the Board.

**Fiscal Impact:** Annual cost of approximately \$3.31 million (Occupational Therapy Fund) and 13.9 positions to support the continued operation of the Board's licensing and enforcement activities.

The Board does not anticipate additional fiscal impacts related to the other provisions of the bill increasing the limit on the total number of occupational therapy assistants (OTAs) employed by a facility and authorizing occupational therapists (OTs) to form corporations and serve as shareholder, officers, and directors of a medical corporation.

**Background:** The Board is responsible for administering and enforcing the act, which outlines the licensure program, a regulatory framework for the practice, licensing, education, and discipline of licensed OTs and licensed OTAs. The Board also regulates unlicensed occupational therapy aides that provide support services to OTs and OTAs.

Occupational therapy is the use of goal-directed activities (occupations) to support client participation, performance, and function at home, school, the workplace, and in other settings. Occupational therapy services are provided for habilitation, rehabilitation, and the promotion of health and wellness for clients with disability- and non-disability-related needs or to those who have, or are at risk of developing, health conditions that limit activity or cause participation restrictions. Common situations include helping children with disabilities to participate fully in school and develop social skills, helping people recovering from injury to regain function through retraining or adaptations, and providing support for older adults experiencing physical and cognitive changes.

OT services include assessment, treatment, education, and consultation. Specific techniques involve teaching activities of daily living (excluding speech-language skills), designing or fabricating orthotic devices, and applying or training in the use of assistive technology or orthotic and prosthetic devices (excluding gait training). In addition to providing the services above, OTs with additional training may seek Board approval to perform specified advanced practices. These include hand therapy; physical agent modalities; use of topical medications; and swallowing assessment, evaluation, or intervention."

#### Proposed Law:

- Extends the sunset date for the Board from January 1, 2023 to January 1, 2027.

- Authorizes OTs to form professional corporations if that corporation, its shareholders, officers, directors, and employees rendering professional services are in compliance with the Moscone-Knox Professional Corporation Act, as specified.
- Authorizes OTs to serve as shareholders and officers of professional medical corporations, as specified.
- Makes technical and other conforming changes including specifying that an OT may supervise up to three OTAs and repealing outdated provisions.

**Related Legislation:** AB 2684 (Berman, 2022) is the Board of Registered Nursing sunset bill. AB 2684 is pending in this committee.

AB 2685 (Berman, 2022) is the Naturopathic Medicine Committee sunset bill. AB 2685 is pending in this committee.

AB 2686 (Berman, 2022) is the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board sunset bill. AB 2686 is pending in this committee.

**Staff Comments:** The boards and bureaus within the Department of Consumer Affairs are special fund agencies whose activities are funded by regulatory and license fees and generally receive no support from the General Fund. New legislative mandates, even those modest in scope, may in totality create new cost pressures and impact the entity's operating costs, future budget requests, or license fees.

**-- END --**

**Senate Bill 1237 can be found at:  
[leginfo.legislature.ca.gov](http://leginfo.legislature.ca.gov)**



Date of Hearing: August 3, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

SB 1237 (Newman) – As Amended March 30, 2022

Policy Committee:	Business and Professions	Vote:	16 - 0
	Military and Veterans Affairs		10 - 0

Urgency: No            State Mandated Local Program: No            Reimbursable: No

**SUMMARY:**

This bill clarifies the phrase “called to active duty,” for purposes of various professional license requirement waivers under the Department of Consumer Affairs (DCA).

Specifically, this bill:

Defines the phrase “called to active duty” as having the same meaning as “active duty” as defined under federal law and additionally includes active duty in the California National Guard due to the proclamation of a state of insurrection, a state extreme emergency, or otherwise being called by the Governor.

**FISCAL EFFECT:**

- 1) DCA anticipates a total revenue reduction of approximately \$100,000 (various special funds) annually, due to estimated revenue losses to each board and bureau ranging from \$0 to \$47,000 annually, depending on the board or bureau. DCA indicates it considers these revenue reductions to be minor and absorbable.
- 2) The California Department of Veterans Affairs (CalVet) anticipates minor and absorbable costs.
- 3) The California Military Department/California National Guard anticipates little, if any, costs as a result of the bill.

**COMMENTS:**

- 1) **Purpose.** According to the author:

This bill expands eligibility to the DCA license fee waiver program for licensees or registrants called to active duty as a member of the United States Armed Forces or the California National Guard by clarifying the basis upon which all thirty-eight licensing boards and bureaus under the jurisdiction of the DCA must administer the program. By codifying a uniform definition of the term “called to active duty,” [this bill] intends to open this program to all licenses or registrants serving in an active duty status, regardless of the duration of their active duty assignment.

This bill is sponsored by the California Optometric Association.

- 2) **Background.** In California, many professions require a license to legally practice. While active-duty members of the United States Armed Forces may practice on federal property with a license from any state, a member who chooses to stay in this state after active duty, or a spouse or partner that moves to this state with an active duty member due to military orders, may be required to apply for a new license, even if they are licensed in a different state. Conversely, a licensee who is called to active duty for duties that do not require a license would need to maintain or reapply for their license to practice upon their return.

Existing law requires DCA boards, with certain exceptions, to waive the renewal fees, continuing education requirements and other renewal requirements as determined by the board, of any licensee or registrant who is called to active duty as a member of the United States Armed Forces or the California National Guard if certain requirements are met. This bill clarifies the definition of “called to active duty” for purposes of these waivers.

**Analysis Prepared by:** Jennifer Swenson / APPR. / (916) 319-2081