



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 02-026

AN ORDER to create chapters OT 1 to 5, relating to the licensure and regulation of occupational therapists.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

02-15-02 RECEIVED BY LEGISLATIVE COUNCIL.

03-14-02 REPORT SENT TO AGENCY.

RNS:REL:ksm;tlu

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



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Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1. Statutory Authority

a. Section OT 1.02 (13) and (14) include “a program approved by the world federation of occupational therapy” under the definitions of “occupational therapist educational programs” and “occupational therapy assistant educational program.” The world federation of occupational therapy is not listed in s. 448.963, Stats., as a body that approves educational programs. Under what authority is the board expanding the types of educational programs that satisfy licensure requirements?

b. It does not appear that the board has the authority under s. 448.965, Stats., to exempt from written examination an occupational therapy assistant who graduated prior to 1977. [See s. OT 2.04.] Is authority located elsewhere in the statutes?

2. Form, Style and Placement in Administrative Code

a. The paper copy of the order does not contain the required plain language analysis providing an understandable and objective description of the rules, chs. OT 1 to 5. The electronic version has only a three-line description of the rule.

b. The definition of “board” in s. OT 1.02 (2) means “the occupational therapy affiliated credentialing board,” while ch. 448, subch. VII refers to the “occupational therapists affiliated credentialing board.” It appears that the word “therapy” in the rule definition should be changed

to "therapists" to conform to the term used in the statutes. In subs. (8) and (9), "is" should be changed to "means."

c. In s. OT 2.02 (1) (b), "as defined in s. OT 1.02 (13)," and "as defined in s. OT 1.02 (14)" should be deleted. Section OT 1.02 (intro.) applies the definitions to all five chapters that are created.

d. In s. OT 2.03 (2) (intro.), the phrase "meets any of the following criteria" should be added at the end of the sentence.

e. In s. OT 2.03 (6), the first "will" should be "shall."

f. In s. OT 2.05 (7), "shall not" should be "may not."

g. In s. OT 3.06 (1) and (2), the word "must" should be changed to "shall."

h. Section OT 5.02 (intro.) should be rewritten to read: "'Unprofessional conduct" means doing, or aiding or abetting, any of the following:".

i. In sub. (7), "tends to" should be changed to "may." In sub. (11), "can" should be changed to "may" and "such" should be changed to "this."

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. OT 1.02 (8), it is unclear what types of activities are included in the definition of "Level I fieldwork."

b. Section OT 2.02 (1) should specify to whom the applicant must submit the application information. This section should also specify how or where an application form may be obtained.

c. In s. OT 2.02 (3), it is unclear why an application is not complete until the board receives a verification of certification from the national board, because sub. (1) (b) authorizes an applicant to submit evidence that the applicant is certified by the national board *or* that the applicant has completed the occupational therapist educational program.

d. In s. OT 2.03 (2) (e), the word "been" should be deleted. In sub. (2) (f), it is unclear whether a court determination of negligence in the practice of occupational therapy is intended, or a determination of an examining board.

e. In s. OT 2.03 (3), it is unclear what is meant by a "regular" license.

f. In s. OT 2.03 (4), it appears that "written or oral" should be inserted after "All."

g. In s. OT 2.03 (5), the word "Where" should be changed to "If." In sub. (6), it is unclear how an applicant is "found eligible" for examination. Is an applicant "found eligible" for examination if the application is complete? This phrase should be clarified.

h. Section OT 2.03 (7) states that applicants "who have been treated for alcohol or drug abuse or impairment" or "who have been treated for an acute or chronic psychological impairment" may be required to take an oral examination, but these specific criteria are not contained in the list of applicants that may be required to complete an oral exam under sub. (2). The same criteria should be used in each subsection.

i. In s. OT 2.05 (1), what is the amount of the "required fee"? In sub. (2), it would be helpful if contact information were included in the rule. Subsection (4) would be clearer if the phrase "a tape of" were inserted before "oral examination."

j. In s. OT 2.06 (1), it appears that the phrase "by the applicant" should be inserted after "reviewed."

k. In s. OT 2.07 (1) (b), is an "approved school" a school that has an educational program as specified under s. OT 2.02 (1) (b)?

l. In s. OT 3.06 (2) (e), how many points are earned under this paragraph?

m. In s. OT 4.02 (1) (d) and (3) (f), screening results and recommendations are transmitted to "all appropriate persons." It is unclear who "all appropriate persons" are.

n. In s. OT 4.03 (1), "assistant" should replace "assistance."

o. In s. OT 4.03 (3), the last comma should be changed to a period. In sub. (4), it appears that the first occurrence of the word "therapy" in the last sentence should be changed to "therapist." In sub. (3) and (4), the word "When" is used at the beginning of both subsections; however, it is unclear under what circumstances "close supervision" is required or "general supervision" is allowed. It would be helpful if sub. (3) included the phrase "under sub. (5)" after "required." In sub. (6), what is an "experienced occupational therapy assistant"?

p. In s. OT 5.02 (3), it appears that the word "thing" should be changed to "item." In subs. (4), (5), (6), (8) and (12), it appears that the phrase "any license" should be changed to "an occupational therapist license or occupational therapy assistant license." In sub. (7), "of client or public" should be "of a client or the public."

q. In s. OT 5.02 (19), "18 years of age" should replace "the age of majority."

STATE OF WISCONSIN
OCCUPATIONAL THERAPY AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : OCCUPATIONAL THERAPY
OCCUPATIONAL THERAPY : AFFILIATED CREDENTIALING
AFFILIATED CREDENTIALING : BOARD ADOPTING RULES
BOARD : (CLEARINGHOUSE RULE 02-)

PROPOSED ORDER

An order of the Occupational Therapy Affiliated Credentialing Board to create chs. OT 1 to 5, relating to the licensure and regulation of occupational therapists.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.085 (5) (b) and 227.11 (2), Stats., and ss. 448.956, 448.961, 448.962, 448.96, 448.963, 448.965, 448.966, 448.967, 448.968, 448.969 and 448.970, Stats., as created by 1999 Wisconsin Act 180.

Statutes interpreted: ss. 448.956, 448.961, 448.962, 448.96, 448.963, 448.965, 448.966, 448.967, 448.968, 448.969 and 448.970, Stats.

no analysis

TEXT OF RULE

SECTION 1. Chapters OT 1 to 5 are created to read:

CHAPTER OT 1

DEFINITIONS

OT 1.01 Authority and purpose. The rules in this chapter are adopted by the occupational therapy affiliated credentialing board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to govern the licensure and regulation of occupational therapists.

OT 1.02 Definitions. As used in chs. OT 1 to 5:

(1) "Assessment" means the process of determining the need for, nature of, and estimated time of treatment at different intervals during the treatment, determining needed coordination with or referrals to other disciplines, and documenting these activities.

- (2) "Board" means the occupational therapy affiliated credentialing board.
- (3) "Consultation" means a work-centered, problem-solving helping relationship in which knowledge, experience, abilities and skills are shared with other professionals in the process of helping to rehabilitate through the use of occupational therapy.
- (4) "Entry-level" means the person has no demonstrated experience in a specific position, such as a new graduate, a person new to the position, or a person in a new setting with no previous experience in that area of practice.
- (5) "Evaluation" means the process of obtaining and interpreting data necessary for understanding the individual system or situation. This includes planning for and documenting the evaluation process, results and recommendations, including the need for intervention and potential change in the intervention plan.
- (6) "Experienced" means demonstrated competence in the performance of duties in a given area of practice.
- (7) "Habilitation" means the education, training or support services provided to individuals to assist them in acquiring skills not yet gained or learned, thus enabling them to learn, practice and refine skills needed for independent living, productive employment and community participation.
- (8) "Level I fieldwork" is an integral part of didactic courses and includes varied learning experiences. Students are supervised in observation and assistance with clients during short term contacts.
- (9) "Level II fieldwork" is extended fieldwork which emphasizes the application and integration of academically acquired knowledge and skills in the supervised delivery of occupational therapy services to clients.
- (10) "Occupational performance areas" means the functional abilities that occupational therapy addresses in the areas of activities of daily living, including incontinence training; self maintenance; functional communication and functional mobility; work and productive activities, including home management; care giving; learning and vocational pursuits; and play or leisure activities, including solitary and social activities and recreation.
- (11) "Occupational performance components" means the skills and abilities that an individual uses to engage in performance areas, including sensorimotor, sensory, neuromuscular and motor factors; cognitive integration and cognitive components; and psychological, social and self-management factors.
- (12) "Occupational performance contexts" means situations or factors that influence an individual's engagement in desired or required occupational performance areas,

including age, maturation, life cycle stage of disability, physical environment, social supports and expectations, and behavioral norms and opportunities.

(13) "Occupational therapist educational program" means an educational program and supervised internships in occupational therapy recognized by the board and accredited by the accreditation council for occupational therapy education of the American occupational therapy association or a program approved by the world federation of occupational therapy.]

(14) "Occupational therapy assistant educational program" means an educational program and supervised internships in occupational therapy recognized by the board and accredited by the accreditation council for occupational therapy education of the American occupational therapy association of a program approved by the world federation of occupational therapy.]

(15) "Prevention" means the fostering of normal development, sustaining and protecting existing functions and abilities, preventing disability or supporting levels of restoration or change to enable individuals to maintain maximum independence.

(16) "Referral" means the practice of requesting occupational therapy services and delegating the responsibility for evaluation and treatment to an occupational therapist.

(17) "Rehabilitation" means the process of treatment and education to restore a person's ability to live and work as normally as possible after a disabling injury or illness.

(18) "Screening" means the review of performance skills in natural environments, educational or clinical settings to determine the significance of discrepancy between current performance and expected level of performance.

(19) "Supervision" of an occupational therapy assistant means a process in which an occupational therapy assistant performs duties delegated by an occupational therapist in a joint effort to promote, establish, maintain, and evaluate the occupational therapy assistant's level of performance and service.

CHAPTER OT 2

LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

OT 2.01 Authority and purpose. The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to govern the licensure and regulation of occupational therapists and occupational therapy assistants.

OT 2.02 Applications and credentials. (1) Every applicant for initial licensure as an occupational therapist or occupational therapy assistant shall submit all of the following:

(a) A completed application form.

(b) Evidence that the applicant is certified as an occupational therapist or occupational therapy assistant by the national board for certification in occupational therapy; or that the applicant has completed an occupational therapist educational program (as defined in s. OT 1.02 (13)) or an occupational therapy assistant educational program (as defined in s. OT 1.02 (14)).

(c) Written verification from the national board for certification in occupational therapy that the applicant has passed the examination required by this chapter.

(2) Requests for verification from the national board for certification in occupational therapy shall be made by the applicant.

(3) An application for licensure is not complete until the board has received both a completed application form and verification of certification from the national board for certification in occupational therapy.

OT 2.03 Examinations, panel review of applications. (1) Applicants for licensure as an occupational therapist or occupational therapy assistant shall pass the certification examination for occupational therapist or the certification examination for occupational therapy assistant of the national board for certification in occupational therapy, and shall complete an open book examination on statutes and rules governing the practice of occupational therapy in Wisconsin.

(2) An applicant may be required to complete an oral examination if the applicant:

(a) Has a medical condition which in any way impairs or limits the applicant's ability to practice occupational therapy with reasonable skill and safety.

(b) Uses chemical substances so as to impair in any way the applicant's ability to practice occupational therapy with reasonable skill and safety.

(c) Has been disciplined or had licensure denied by a licensing or regulatory authority in Wisconsin or another jurisdiction.

(d) Has been convicted of a crime the circumstances of which substantially relate to the practice of occupational therapy.

(e) Has not practiced occupational therapy for a period of 3 years prior to application, unless the applicant has been graduated from a school of occupational therapy within that period. Practice for the purposes of this paragraph includes direct client treatment and education, occupational therapy instruction in an occupational therapy program recognized by the board, occupational therapy research, and service in administrative positions for health care providers or governmental bodies with responsibility relating to occupational therapy.

(f) Has been found negligent in the practice of occupational therapy or has been a party in a lawsuit in which it was alleged that the applicant has been negligent in the practice of occupational therapy.

(g) Has been diagnosed as suffering from pedophilia, exhibitionism or voyeurism.

(h) Has within the past 2 years engaged in the illegal use of controlled substances.

(i) Has been subject to adverse formal action during the course of occupational therapy education, postgraduate training, hospital practice, or other occupational therapy employment.

(j) Has been graduated from an occupational therapy school not approved by the board.

(3) An application filed under s. OT 2.01 shall be reviewed by an application review panel of at least 2 board members designated by the chairperson of the board. The panel shall determine whether the applicant is eligible for a regular license without completing an oral examination.

(4) All examinations shall be conducted in the English language.

(5) Where both written and oral examinations are required they shall be scored separately and the applicant shall achieve a passing grade on all examinations to qualify for a license.

(6) The board will notify each applicant found eligible for examination of the time and place scheduled for that applicant's examinations. Failure of an applicant to appear for examinations as scheduled will void that applicant's application and require the applicant to reapply for licensure, unless prior scheduling arrangements have been made with the board by the applicant.

(7) If after receipt of additional information from applicants who have been treated for alcohol or drug abuse or impairment or from applicants who have been treated for an acute or chronic psychological impairment the board decides that an oral examination shall be administered, the examination shall be limited to a determination whether at the time of application the applicant's disability appears to pose an actual risk to the health, safety or welfare of client or public arising from the applicant's demonstrated inability to safely carry out necessary duties and responsibilities inherent to the practice of occupational therapy.

OT 2.04 Exemption from written examination for certain occupational therapy assistant applicants. An applicant for licensure as an occupational therapy assistant who

graduated from an occupational therapy assistant educational program prior to 1977 is exempt from the requirements for a written licensure examination for occupational therapy assistant.

OT 2.05 Examination review by applicant. (1) An applicant who fails the oral or statutes and rules examination may request a review of that examination by filing a written request and required fee with the board within 30 days of the date on which examination results are mailed.

(2) Examination reviews are by appointment only.

(3) An applicant may review the statutes and rules examination for not more than one hour.

(4) An applicant may review the oral examination for not more than 2 hours.

(5) The applicant may not be accompanied during the review by any person other than the proctor.

(6) At the beginning of the review, the applicant shall be provided with a copy of the questions, a copy of the applicant's answer sheet or oral tape and a copy of the master answer sheet.

(7) The applicant may review the examination in the presence of a proctor. The applicant shall be provided with a form on which to write comments, questions or claims of error regarding any items in the examination. Bound reference books shall be permitted. Applicants shall not remove any notes from the area. Notes shall be retained by the proctor and made available to the applicant for use at a hearing, if desired. The proctor shall not defend the examination nor attempt to refute claims of error during the review.

(8) An applicant may not review the examination more than once.

OT 2.06 Board review of examination error claim. (1) An applicant claiming examination error shall file a written request for board review in the board office within 30 days of the date the examination was reviewed. The request shall include all of the following:

(a) The applicant's name and address.

(b) The type of license for which the applicant applied.

(c) A description of the mistakes the applicant believes were made in the examination content, procedures, or scoring, including the specific questions or procedures claimed to be in error.

(d) The facts which the applicant intends to prove, including reference text citations or other supporting evidence for the applicant's claim.

(2) The board shall review the claim, make a determination of the validity of the objections and notify the applicant in writing of the board's decision and any resulting grade changes.

(3) If the decision does not result in the applicant passing the examination, a notice of denial of license shall be issued. If the board issues a notice of denial following its review, the applicant may request a hearing under s. RL 1.05.

Note: The board office is located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

OT 2.07 Temporary license. (1) An applicant for licensure may apply to the board for a temporary license to practice as an occupational therapist or occupational therapy assistant if the applicant does all of the following:

(a) Remits the fee specified in s. 440.05 (6), Stats.

(b) Is a graduate of an approved school and is scheduled to take the national certification examination for occupational therapist or occupational therapist assistant or has taken the national certification examination and is awaiting results.

(2) Practice during the period of the temporary license shall be in consultation, at least monthly, with an occupational therapist who shall at least once each month endorse the activities of the person holding the temporary license.

(3) An applicant with a temporary license may practice at no more than 2 separate employment locations.

(4) Except as specified in sub. (5), a temporary license expires on the date the applicant is notified that he or she has failed the national certification examination for permanent licensure or on the date the board grants or denies an applicant permanent licensure, whichever is later.

(5) A temporary license expires on the first day of the next regularly scheduled national certification examination for permanent licensure if the applicant is required to take, but failed to apply for, the examination.

(6) A temporary license may not be renewed.

CHAPTER OT 3

BIENNIAL REGISTRATION

OT 3.01 Authority and purpose. The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to govern biennial registration requirements for occupational therapists and occupational therapy assistants.

OT 3.02 Registration required; method of registration. Each licensee shall register biennially with the board. Prior to November 1 of each odd-numbered year the department shall mail to each licensee at his or her last known address as it appears in the records of the board an application form for registration. Each licensee shall complete the application form and return it with the required fee to the department. The board shall notify the licensee within 30 business days of receipt of a completed registration form whether the application for registration is approved or denied.

OT 3.03 Initial registration. Any licensee who is initially granted and issued a license during a given calendar year shall register for that biennium. The board shall notify the licensee within 30 business days of receipt of a completed registration form whether the application for registration is approved or denied.

OT 3.04 Registration prohibited. Any occupational therapist or occupational therapy assistant required to comply with the provisions of s. OT 3.06, and s. 448.967, (2), Stats., and who has not so complied, will not be permitted to register.

OT 3.05 Failure to be registered. Failure to renew a license by November 1 of odd-numbered years shall cause the license to lapse. A licensee who allows the license to lapse may apply to the board for reinstatement of the license as follows:

(1) If the licensee applies for renewal of the license less than 5 years after its expiration, the license shall be renewed upon payment of the renewal fee and fulfillment of the continuing education requirements.

(2) If the licensee applies for renewal of the license more than 5 years after its expiration, the board shall make such inquiry as it finds necessary to determine whether the applicant is competent to practice under the license in this state, and shall impose any reasonable conditions on reinstatement of the license, including oral examination, as the board deems appropriate. All applicants under this paragraph shall be required to pass the open book examination on statutes and rules, which is the same examination given to initial applicants.

OT 3.06 Continuing education. (1) Each holder of a license as an occupational therapist shall, at the time of applying for renewal of a license of registration under s. 448.07, Stats., certify that he or she has, in the 2 years preceding the renewal application, completed at least 30 hours of acceptable continuing education. At least 15 of the points must be acquired in the categories set forth in sub. (3) (a) and (b).

(2) Each holder of a license as an occupational therapy assistant shall, at the time of applying for renewal of a license of registration under s. 448.967, Stats., certify that he or she has, in the 2 years preceding the renewal application, completed at least 24 hours of acceptable continuing education. At least 12 of the points must be acquired in the categories set forth in sub. (3) (a) and (b).

(3) Points shall be accumulated through activities related to occupational therapy in the following categories:

(a) Attendance at university, college or vocational technical adult education courses: 4 hours per semester credit.

(b) Attendance at seminars, workshops, or institutes, attendance at educational telephone network courses, attendance at videotaped presentations of educational courses, seminars, workshops, or institutes, attendance at educational sessions at state and national conferences relating to occupational therapy, attendance at online courses: 1 hour per hour of attendance.

(c) Satisfactory completion of American occupational therapy association approved self-study course: 1 hour per unit.

(d) Attendance at employer-provided continuing education, including video and non-interactive online courses: ½ point per hour of attendance.

(e) Initial completion of specialty certification in occupational therapy, including but not limited to, board certified in neurorehabilitation, board certified in pediatrics, board certified in gerontology, certified driver rehabilitation specialist, advanced practitioner, neuro-developmental treatment, certified case manager and certified rehabilitation counselor.

(f) Professional publishing, research, presentation and supervision activities, as follows:

1. Authorship of a published book: 12 points.
2. Authorship of a published book chapter or journal article: 5 points.
3. Development of alternative media materials, including computer software, programs and video instructional material: 5 points.
4. Clinical or theoretical research as the principal researcher where an abstract is prepared: 12 points.
5. Professional presentations: 2 points per hour of presentation, with no additional points for subsequent presentation of same content.
6. Student field work supervision: level 1: 5 points per student; level 2: 10 points per student.

(4) Evidence of compliance with this section such as certificates of completion shall be retained by each license holder through the biennium following the biennium for which credit is required for renewal of license.

(5) The board may require any license holder to submit evidence of compliance with this section to the board for an audit at any time during the biennium following the biennium for which credit is required for license renewal.

CHAPTER OT 4

PRACTICE AND SUPERVISION

OT 4.01 Authority and purpose. The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to govern the standards of practice and supervision requirements for occupational therapists and occupational therapy assistants.

OT 4.02 Standards of practice. Occupational therapists and occupational therapy assistants shall adhere to the minimum standards of practice of occupational therapy that have become established in the profession, including but not limited to the following areas:

(1) **SCREENING.** (a) An occupational therapist, alone or in collaboration with an occupational therapy assistant, when practicing either independently or as a member of a treatment team, shall identify individuals who present deficits or declines in occupational performance areas and performance components.

(b) Screening methods shall take into consideration the occupational performance contexts relevant to the individual.

(c) Screening methods may include interviews, observations, testing and records review to determine the need for further evaluation and intervention.

(d) The occupational therapist or occupational therapy assistant shall transmit screening results and recommendations to all appropriate persons.

(2) **REFERRAL.** (a) Evaluation and rehabilitative treatment shall be based on a referral from a licensed physician, dentist, psychologist, chiropractor, optometrist, physician assistant, advanced practice nurse, or podiatrist.

(b) An occupational therapist or occupational therapy assistant may accept a referral for the purpose of providing services which include consultation, habilitation, screening, prevention and client education services.

(c) Services that do not require referral include screening, consultation, habilitation, client education, wellness, prevention, environmental assessments, and work related services.

(d) Referrals may be for an individual case or may be for an established treatment program that includes occupational therapy services. If programmatic, the individual

shall meet the criteria for admission to the program and protocol for the treatment program shall be established by the treatment team members.

(e) Referrals shall be in writing. However, oral referrals may be accepted if they are followed by a written and signed request of the person making the referral within 14 days from the date on which the client consults with the occupational therapist or occupational therapy assistant.

(3) EVALUATION. (a) An occupational therapist alone or in collaboration with the occupational therapy assistant shall prepare an occupational therapy evaluation for each individual referred for occupational therapy services.

(b) The evaluation shall consider the individual's medical, vocational, social, educational, family status, and personal and family goals, and shall include an assessment of how occupational performance components and occupational performance contexts influence the individual's functional abilities and deficits in occupational performance areas.

(c) Evaluation methods may include observation, interviews, records review, and the use of structured or standardized evaluative tools or techniques.

(d) When standardized evaluation tools are used, the tests shall have normative data for the individual's characteristics. If normative data are not available, the results shall be expressed in a descriptive report. Collected evaluation data shall be analyzed and summarized to indicate the individual's current status.

(e) Evaluation results shall be documented in the individual's record and shall indicate the specific evaluation tools and methods used.

(f) Evaluation results shall be communicated to the referral source and to the appropriate persons in the facility and community.

(g) If the results of the evaluation indicate areas that require intervention by other health care professionals, the individual shall be appropriately referred or an appropriate consultation shall be requested.

(h) Initial evaluation shall be completed and results documented within the time frames established by the applicable facility, community, regulatory, or funding body.

(4) PROGRAM PLANNING. (a) An occupational therapist alone or in collaboration with the occupational therapy assistant shall use the results of the evaluation to develop an individual occupational therapy program.

(b) The program shall be stated in measurable and reasonable terms appropriate to the individual's needs, functional goals and prognosis and shall identify short and long term goals.

(c) The program shall be consistent with current principles and concepts of occupational therapy theory and practice.

(d) In developing the program, the occupational therapist alone or in collaboration with the occupational therapy assistant shall also collaborate, as appropriate, with the individual, family, other health care professionals and community resources; shall select the media, methods, environment, and personnel needed to accomplish the goals; and shall determine the frequency and duration of occupational therapy services provided.

(e) The program shall be prepared and documented within the time frames established by the applicable facility, community, regulatory, or funding body.

(5) PROGRAM IMPLEMENTATION. (a) The occupational therapy program shall be implemented according to the program plan previously developed.

(b) The individual's occupational performance areas and occupational performance components shall be routinely and systematically evaluated and documented.

(c) Program modifications shall be formulated and implemented consistent with the changes in the individual's occupational performance areas, occupational performance components and occupational performance contexts.

(d) All aspects of the occupational therapy program shall be routinely and systematically reviewed for effectiveness and efficacy.

(6) DISCONTINUATION OF SERVICES. (a) Occupational therapy services shall be discontinued when the individual has achieved the program goals or has achieved maximum benefit from occupational therapy.

(b) A comparison of the initial and current state of functional abilities and deficits in occupational performance areas and occupational performance components shall be made and documented.

(c) A discharge plan shall be prepared, consistent with the services provided, the individual's goals, and the expected prognosis. Consideration shall be given to the individual's occupational performance contexts including appropriate community resources for referral, and environmental factors or barriers that may need modification.

(d) Sufficient time shall be allowed for the coordination and effective implementation of the discharge plan.

(e) Recommendations for follow-up or reevaluation shall be documented.

OT 4.03 Practice by occupational therapy assistants. (1) An occupational therapy assistant must practice under the supervision of an occupational therapist when providing rehabilitation, neonate, early interventions, or school system practice. Supervision is an

interactive process that requires both the occupational therapist and the occupational therapy assistance to share responsibility for communication between the supervisor and the supervisee.

(2) Supervision of an occupational therapy assistant by an occupational therapist shall be either close or general. The supervising occupational therapist shall have responsibility for the outcome of the performed service.

(3) When close supervision is required, the supervising occupational therapist shall have daily, direct contact on the premises with the occupational therapy assistant. The occupational therapist shall provide initial direction in developing the plan of treatment and shall periodically inspect the actual implementation of the plan. The occupational therapist shall countersign all client related documents prepared by the occupational therapy assistant,

(4) When general supervision is allowed, the supervising occupational therapist shall have direct contact on the premises with the occupational therapy assistant at least once each month. In the interim between direct contacts, the occupational therapist shall maintain contact with the occupational therapy assistant by telephone, written reports and group conferences. The occupational therapy shall record in writing a specific description of the supervisory activities undertaken for each occupational therapy assistant.

(5) Close supervision is required for all rehabilitative services provided by an entry level occupational therapy assistant. All other occupational therapy services provided by an occupational therapy assistant may be performed under general supervision, if the supervising occupational therapist determines, under the facts of the individual situation, that general supervision is appropriate using established professional guidelines.

(6) In extenuating circumstances, when the supervising occupational therapist is absent from the job, the experienced occupational therapy assistant may carry out established programs for 30 calendar days. The occupational therapist must provide up-to-date documentation prior to absence.

CHAPTER OT 5

UNPROFESSIONAL CONDUCT

OT 5.01 Authority and purpose. The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to establish the rules of conduct for occupational therapists and occupational therapy assistants.

OT 5.02 Unprofessional conduct defined. The term "unprofessional conduct" is defined to mean and include the following, or aiding or abetting the same:

(1) Violating or attempting to violate any provision or term of ss. 448.96 to 448.970, Stats., or of any rule of the board.

(2) Violating or attempting to violate any term, provision, or condition of any order of the board.

(3) Knowingly making or presenting or causing to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other thing in connection with any application for license.

(4) Practicing fraud, forgery, deception, collusion, or conspiracy in connection with any examination for license.

(5) Giving, selling, buying, bartering, or attempting to give, sell, buy, or barter any license.

(6) Engaging or attempting to engage in practice under any license under any given name or surname other than that under which originally licensed or registered to practice in this or any other state. This subsection does not apply to change of name resulting from marriage, divorce, or order by a court of record.

(7) Any practice or conduct which tends to constitute a danger to the health, welfare, or safety of client or public.

(8) Practicing or attempting to practice under any license when unable to do so with reasonable skill and safety to clients.

(9) Practicing or attempting to practice under any license beyond the scope of that license.

(10) Offering, undertaking, or agreeing to treat or cure a disease or condition by a secret means, method, device, or instrumentality; or refusing to divulge to the board upon demand the means, method, device, or instrumentality used in the treatment of a disease or condition.

(11) Representing that a manifestly incurable disease or condition can be or will be permanently cured; or that a curable disease or condition can be cured within a stated time, if such is not the fact.

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(12) Knowingly making any false statement, written or oral, in practicing under any license, with fraudulent intent; or obtaining or attempting to obtain any professional fee or compensation of any form by fraud or deceit.

(13) Willfully divulging a privileged communication or confidence entrusted by a client or deficiencies in the character of clients observed in the course of professional attendance, unless lawfully required to do so.

(14) Engaging in uninvited, in-person solicitation of actual or potential clients who, because of their particular circumstances, are vulnerable to undue influence; or engaging in false, misleading or deceptive advertising.

(15) Having a license, certificate, permit, registration, or other practice credential granted by another state or by any agency of the federal government to practice occupational therapy, which becomes limited, restricted, suspended, or revoked, or having been subject to other adverse action by the state licensing authority or by any agency of the federal government including the denial or limitation of an original credential, or the surrender of a credential, whether or not accompanied by findings of negligence or unprofessional conduct.

(16) Conviction of any crime the circumstances of which substantially relate to the circumstances of the practice of occupational therapy. A certified copy of a judgment of a court record showing such conviction, within this state or without, shall be presumptive evidence.

(17) Aiding or abetting the unlicensed practice of occupational therapy.

(18) Violating or aiding and abetting the violation of any law or administrative rule or regulation the circumstances of which substantially relate to the circumstances of the practice of occupational therapy.

(19) Engaging in inappropriate sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a client. For the purposes of this subsection, an adult receiving treatment shall continue to be a client for 2 years after the termination of professional services. If the person receiving treatment is a minor, the person shall continue to be a client for the purposes of this subsection for 2 years after termination of services, or for 2 years after the client reaches the age of majority, whichever is longer.

18

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____ Agency _____
Chairperson
Occupational Therapy Affiliated
Credentialing Board

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

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2/13/02

**WISCONSIN DEPARTMENT OF
REGULATION & LICENSING**

Scott McCallum
Governor
Oscar Herrera
Secretary



1400 East Washington Avenue
PO Box 8935
Madison WI 53708-8935
Email: dorl@drl.state.wi.us
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TTY: 608-267-2416

August 14, 2002

The Honorable Judith B. Robson
Chair, Senate Committee on Human Services and Aging
Post Office Box 7882
Madison, Wisconsin 53707-7882

Re: Clearinghouse Rule 02-026

Dear Senator Robson:


Thank you for your letter of August 1, 2002 regarding Clearinghouse Rule 02-026 that relates to the licensure and regulation of occupational therapists and occupational therapy assistants.

I am writing to give you a current update on the progress in our attempt to work out the differences on the above reference rule between the Occupational Therapists Affiliated Credentialing Board, Wisconsin Occupational Therapy Association, Wisconsin Physical Therapy Association and the Wisconsin Medical Society.

A meeting has been scheduled on Monday, August 19, 2002, 2:30 p.m., here at the department, for the board and associations representatives to discuss their differences and reach some type of agreement on the rule.

I will keep you inform on the outcome of the meeting. Thank you for your patience in this matter.

Sincerely,


Oscar Herrera
Secretary

OH/mls

cc: Occupational Therapists Affiliated Credentialing Board

**STATE OF WISCONSIN
OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD**

**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : OCCUPATIONAL THERAPISTS
OCCUPATIONAL THERAPISTS : AFFILIATED CREDENTIALING
AFFILIATED CREDENTIALING : BOARD ADOPTING RULES
BOARD : (CLEARINGHOUSE RULE 02-026)**

TO: Senator Judy Robson, Senate Co-Chairperson
Joint Committee for the Review of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD is submitting in final draft form rules relating to the licensure and regulation of occupational therapists and occupational therapy assistants.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

**STATE OF WISCONSIN
OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD**

IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
OCCUPATIONAL THERAPISTS : ON CLEARING HOUSE RULE 02-026
AFFILIATED CREDENTIALING : (s. 227.19 (3), Stats.)
BOARD :

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

These rules will have no significant impact upon state or local units of government.

IV. STATEMENT EXPLAINING NEED:

This proposed rule-making creates new rules relating to 1999 Wisconsin Act 180 which was published on June 1, 2000, and initiated the licensure and regulation of occupational therapists and occupational therapy assistants.

The rules create five chapters, numbering from OT 1 to OT 5, relating to authority and purpose, definitions, licensure of occupational therapists and occupational therapy assistants, applications and credentials, examinations, temporary licenses, biennial registration, continuing education, practice and supervision, standards of practice, supervision of occupational therapy aides, and unprofessional conduct.

V. NOTICE OF PUBLIC HEARING:

A public hearing was held on March 22, 2002. Written comments were received from:

Occupational Therapy Staff, University of Wisconsin Hospitals and Clinics Authority.
Sally Swetnam, OTR

Patricia Bober, Prairie du Sac, WI

Wayne L. Winistorfer, O.T., St. Elizabeth Hospital, Appleton, WI

Elizabeth Kubat, OTR, Milwaukee, WI

Kari Olson, COTA, Wauwatosa, WI

Maureen Raclawski, OTR, Appleton, WI

Occupational Therapy Staff, Occupational Therapy Department, St. Joseph Regional Medical Center, Milwaukee, WI
Kris Mungovan, MS, OT, Team Rehab, Inc.
Beth Spicer, MSOTR, Green Bay, WI
Mary Jean Eisenga, OTR, Madison, WI
Mary L. Wise, OT
Carol J. Harm, OTR, CHT, Occupational Therapy Program Coordinator, Meriter Hospital Hand Therapy, Madison, WI
Claudia Meyer, OTR
Linda M. Anderson, MS OTR FAOTA, President, Wisconsin Occupational Therapy Association, Madison, WI
Catherine Wilson, OTR, Program Director, Occupational Therapy Assistant Program, Madison Area Technical College, Madison, WI
Joe Handrick, Minocqua, WI
Deb McKernan, Ace COTA
Katherine Bagemihl, OTR
Peggy L. Nelson, OTR, Director of Rehab Services, Mile Bluff Medical Center, Portage, WI
Occupational Therapy Department, New Berlin Therapies, S.C., New Berlin, WI
Jan Stevens, OT, Rehab Resources, Beaver Dam, WI
Karen Smith, OT, Regulatory Associate, State Affairs Group & Charles Willmarth, Manager, State Affairs Group, The American Occupational Therapy Association, Inc., Bethesda, MD
Staff, Bay Area Medical Center, Rehabilitation Services, Physical, Occupational & Speech Therapy, Cardiac Rehabilitation Program, Sports Medicine/Athletic Training, Marinette, WI
Doreen Olson, MS, OTR, OTA Program Director, Western Wisconsin Technical College, Independence, WI
Mary Ann Roehle, OTR, Ann Fahey, OTR, Sally Swenson, Kirsten Westerbroek, OTR, Ann M. Matyas, OTR CHT, Sue Lehmann
Theda Clark Medical Center, Center for Rehabilitation Services, Neenah, WI
Christa Vosters
Janet Fredericks, OTR
Teri Black, COTA, Wisconsin Occupational Therapy Association, Madison, WI

Bernadette Gates, Oregon WI, and Janice Stevens, Waukesha, WI appeared at the public hearing.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 1.a. Section OT 1.02 (13) and (14) include "a program approved by the world federation of occupational therapy" under the definitions of "occupational therapist educational programs" and "occupational therapy assistant educational program." The world federation of occupational therapy is not listed in s. 448.963, Stats., as a body that approves educational programs. Under what authority is the board expanding the types of educational programs that satisfy licensure requirements?

Response: The World Federation of Occupational Therapy is the successor to the National Board for Certification in Occupational Therapy.

Comment 1.b. It does not appear that the board has the authority under s. 448.965, Stats., to exempt from written examination an occupational therapy assistant who graduated prior to 1977. [See s. OT 2.04.] Is authority located elsewhere in the statutes?

Response: There was no examination required for certification prior to 1977.

Comment 5.a. In s. OT 1.02 (8), it is unclear what types of activities are included in the definition of "Level I fieldwork."

Response: The definition is clear in identifying a clinical component of the occupational therapy instructional program.

Comment 5.c. In s. OT 2.02 (3), it is unclear why an application is not complete until the board receives a verification of certification from the national board, because sub. (1) (b) authorizes an applicant to submit evidence that the applicant is certified by the national board *or* that the applicant has completed the occupational therapist educational program.

Response: Section OT 2.02 (3) states that the applicant must submit evidence of certification and (not "or") evidence of completion of schooling.

Comment 5.d. In s. OT 2.03 (2) (e), the word "been" should be deleted. In sub. (2) (f), it is unclear whether a court determination of negligence in the practice of occupational therapy is intended, or a determination of an examining board.

Response: The first comment has been accepted. It could be either a court determination of negligent practice or the finding of another examining board.

Comment 5.h. Section OT 2.03 (7) states that applicants "who have been treated for alcohol or drug abuse or impairment" or "who have been treated for an acute or chronic psychological impairment" may be required to take an oral examination, but these specific criteria are not contained in the list of applicants that may be required to complete an oral exam under sub. (2). The same criteria should be used in each subsection.

Response: The phrase "oral examination may not be administered" has been amended to read "oral examination shall be administered." In terms of whether these are identified in the bases for oral examination, they are. See s. OT 2.03 (2) (a) and (b). If the language appearing in s. OT 2.03 (7) were utilized in s. OT 2.03 (2), the board would be skirting with a violation of the Americans With Disabilities Act.

Comment 5.i. The phrase "filing a written request and required fee" has been changed to "filing a written request and the fee required under s. 440.07 (3), Stats." There is contact information contained at the end of s. OT 2.05

The remaining recommendations suggested in the Clearinghouse Report were accepted in whole.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

These rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

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6/27/02

STATE OF WISCONSIN
OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : OCCUPATIONAL THERAPISTS
OCCUPATIONAL THERAPISTS : AFFILIATED CREDENTIALING
AFFILIATED CREDENTIALING : BOARD ADOPTING RULES
BOARD : (CLEARINGHOUSE RULE 02-026)

PROPOSED ORDER

An order of the Occupational Therapists Affiliated Credentialing Board to create chs. OT 1 to 5, relating to the licensure and regulation of occupational therapists and occupational therapy assistants.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.085 (5) (b) and 227.11 (2), Stats., and ss. 448.956, 448.961, 448.962, 448.96, 448.963, 448.965, 448.966, 448.967, 448.968, 448.969 and 448.970, Stats., as created by 1999 Wisconsin Act 180.

Statutes interpreted: ss. 448.956, 448.961, 448.962, 448.96, 448.963, 448.965, 448.966, 448.967, 448.968, 448.969 and 448.970, Stats.

This proposed rule-making creates new rules, relating to 1999 Wisconsin Act 180 which was published on June 1, 2000, and initiated the licensure and regulation of occupational therapists and occupational therapy assistants.

The rules create five chapters, numbering from OT 1 to OT 5, relating to authority and purpose, definitions, licensure of occupational therapists and occupational therapy assistants, applications and credentials, examinations, temporary licenses, biennial registration, continuing education, practice and supervision, standards of practice, supervision of occupational therapy aides, and unprofessional conduct.

Chapter OT 1 states the authority and purpose of Chapter OT 1 and defines 20 terms which are used in chapters OT 1 to OT 5.

Chapter OT 2 states the authority and purpose for this chapter, and provides the requirements for initial licensure as occupational therapists and occupational therapy assistants. Chapter OT 2 also sets forth requirements for examinations, examination review of applicants, as well as the requirements for temporary licenses.

Chapter OT 3 states the authority and purpose of Chapter OT 3. This chapter also includes registration requirements, initial registration and failure to be registered. Chapter OT 3 relates to

continuing education. It contains a chart listing professional development activities as well as professional development points.

Chapter OT 4 states the authority and purpose of Chapter OT 4. This chapter sets forth the scope of practice, standards of practice, practice by occupational therapy assistants and supervision of occupational therapy aides.

And, finally, Chapter OT 5 states the authority and purpose of Chapter OT 5 and provides 19 definitions of unprofessional conduct.

TEXT OF RULE

SECTION 1. Chapters OT 1 to 5 are created to read:

CHAPTER OT 1

DEFINITIONS

OT 1.01 Authority and purpose. The rules in this chapter are adopted by the occupational therapists affiliated credentialing board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to govern the licensure and regulation of occupational therapists.

OT 1.02 Definitions. As used in chs. OT 1 to 5:

(1) "Assessment" is a component part of the evaluation process, and means the process of determining the need for, nature of, and estimated time of treatment at different intervals during the treatment, determining needed coordination with or referrals to other disciplines, and documenting these activities.

(2) "Board" means the occupational therapists affiliated credentialing board.

(3) "Consultation" means a work-centered, problem-solving helping relationship in which knowledge, experience, abilities and skills are shared with other professionals in the process of helping to rehabilitate through the use of occupational therapy.

(4) "Entry-level" means the person has no demonstrated experience in a specific position, such as a new graduate, a person new to the position, or a person in a new setting with no previous experience in that area of practice.

(5) "Evaluation" means the process of obtaining and interpreting data necessary for understanding the individual system or situation. This includes planning for and documenting the evaluation process, results and recommendations, including the need for intervention and potential change in the intervention plan.

(6) "Experienced" means demonstrated competence in the performance of duties in a given area of practice.

(7) "Habilitation" means the education, training or support services provided to individuals to assist them in acquiring skills not yet gained or learned, thus enabling them to learn, practice and refine skills needed for independent living, productive employment activity and community participation.

(8) "Level I fieldwork" means an integral part of didactic courses and includes varied learning experiences. Students are supervised in observation and assistance with clients during short term contacts.

(9) "Level II fieldwork" means extended fieldwork which emphasizes the application and integration of academically acquired knowledge and skills in the supervised delivery of occupational therapy services to clients.

(10) "Occupational performance areas" means the functional abilities that occupational therapy addresses in the areas of activities of daily living, including incontinence training; self maintenance; functional communication and functional mobility; work and productive activities, including home management; care giving; learning and vocational pursuits; and play or leisure activities, including solitary and social activities and recreation.

(11) "Occupational performance components" means the skills and abilities that an individual uses to engage in performance areas, including sensorimotor, sensory, neuromuscular and motor factors; cognitive integration and cognitive components; and psychological, social and self-management areas.

(12) "Occupational performance contexts" means situations or factors that influence an individual's engagement in desired or required occupational performance areas, including age, maturation, life cycle stage of disability, physical environment, social supports and expectations, and behavioral norms and opportunities.

(13) "Occupational therapist educational program" means an educational program and supervised internships in occupational therapy recognized by the board and accredited by the accreditation council for occupational therapy education of the American occupational therapy association or a program approved by the world federation of occupational therapy.

(14) "Occupational therapy assistant educational program" means an educational program and supervised internships in occupational therapy recognized by the board and accredited by the accreditation council for occupational therapy education of the American occupational therapy association or a program approved by the world federation of occupational therapy.

(15) "Prevention" means the fostering of normal development, sustaining and protecting existing functions and abilities, preventing disability or supporting levels of restoration or change to enable individuals to maintain maximum independence.

(16) "Referral" means the practice of requesting occupational therapy services and delegating the responsibility for evaluation and treatment to an occupational therapist.

(17) "Rehabilitation" means the process of treatment and education to restore a person's ability to live and work as normally as possible after a disabling injury or illness.

(18) "Screening" means the review of occupational performance components in natural environments, educational or clinical settings to determine the significance of discrepancy between current performance and expected level of performance.

(19) "Service competence" means the determination made by various methods that 2 people performing the same or equivalent procedures will obtain the same or equivalent results.

(20) "Supervision" of an occupational therapy assistant means a process in which an occupational therapy assistant performs duties delegated by an occupational therapist in a joint effort to promote, establish, maintain, and evaluate the occupational therapy assistant's level of performance and service.

CHAPTER OT 2

LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

OT 2.01 Authority and purpose. The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to govern the licensure and regulation of occupational therapists and occupational therapy assistants.

OT 2.02 Applications and credentials. (1) Every applicant for initial licensure as an occupational therapist or occupational therapy assistant shall submit all of the following:

(a) A completed application form.

Note: Application forms are available upon request to the board office at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

(b) Evidence that the applicant is certified as an occupational therapist or occupational therapy assistant by the national board for certification in occupational therapy; and that the applicant has completed an occupational therapist educational program, or an occupational therapy assistant educational program.

(c) Written verification from the national board for certification in occupational therapy that the applicant has passed the examination required by this chapter.

(2) Requests for verification from the national board for certification in occupational therapy shall be made by the applicant.

(3) An application for licensure is not complete until the board has received both a completed application form and verification of initial certification from the national board for certification in occupational therapy.

OT 2.03 Examinations, panel review of applications. (1) Applicants for licensure as an occupational therapist or occupational therapy assistant shall pass the certification examination for occupational therapist or the certification examination for occupational therapy assistant of the national board for certification in occupational therapy, and shall complete an open book examination on statutes and rules governing the practice of occupational therapy in Wisconsin.

(2) An applicant may be required to complete an oral examination if the applicant meets any of the following criteria:

(a) Has a medical condition which in any way impairs or limits the applicant's ability to practice occupational therapy with reasonable skill and safety.

(b) Uses chemical substances so as to impair in any way the applicant's ability to practice occupational therapy with reasonable skill and safety.

(c) Has been disciplined or had licensure denied by a licensing or regulatory authority in Wisconsin or another jurisdiction.

(d) Has been convicted of a crime the circumstances of which substantially relate to the practice of occupational therapy.

(e) Has not practiced occupational therapy for a period of 3 years prior to application, unless the applicant has graduated from a school of occupational therapy within that period. Practice for the purposes of this paragraph includes direct client treatment and education, occupational therapy instruction in an occupational therapy academic program recognized by the board, occupational therapy research, and service in administrative positions for health care providers or governmental bodies with responsibility relating to occupational therapy.

(f) Has been found negligent in the practice of occupational therapy or has been a party in a lawsuit in which it was alleged that the applicant has been negligent in the practice of occupational therapy.

(g) Has been diagnosed as suffering from pedophilia, exhibitionism or voyeurism.

(h) Has within the past 2 years engaged in the illegal use of controlled substances.

(i) Has been subject to adverse formal action during the course of occupational therapy education, postgraduate training, hospital practice, or other occupational therapy employment.

(j) Has been graduated from an occupational therapy school not approved by the board.

(3) An application filed under s. OT 2.01 shall be reviewed by an application review panel of at least 2 board members designated by the chairperson of the board. The panel shall determine whether the applicant is eligible for a license without completing an oral examination.

(4) All written or oral examinations shall be conducted in the English language.

(5) If both written and oral examinations are required they shall be scored separately and the applicant shall achieve a passing grade on all examinations to qualify for a license.

(6) The board shall notify each applicant eligible for examination of the time and place scheduled for that applicant's examinations. Failure of an applicant to appear for examinations as scheduled will void that applicant's application and require the applicant to reapply for licensure, unless prior scheduling arrangements have been made with the board by the applicant.

(7) If after receipt of additional information from applicants who have been treated for alcohol or drug abuse or impairment or from applicants who have been treated for an acute or chronic psychological impairment the board decides that an oral examination shall be administered, the examination shall be limited to a determination whether at the time of application the applicant's disability appears to pose an actual risk to the health, safety or welfare of client or public arising from the applicant's demonstrated inability to safely carry out necessary duties and responsibilities inherent to the practice of occupational therapy.

OT 2.04 Exemption from written examination for certain occupational therapy assistant applicants. An applicant for licensure as an occupational therapy assistant who graduated from an occupational therapy assistant educational program prior to 1977 is exempt from the requirements for a written licensure examination for occupational therapy assistant.

OT 2.05 Examination review by applicant. (1) An applicant who fails the oral or statutes and rules examination may request a review of that examination by filing a written request and the fee required under s. 440.07 (3), Stats., with the board within 30 days of the date on which examination results are mailed.

(2) Examination reviews are by appointment only.

(3) An applicant may review the statutes and rules examination for not more than one hour.

(4) An applicant may review a tape of the oral examination for not more than 2 hours.

(5) The applicant may not be accompanied during the review by any person other than the proctor.

(6) At the beginning of the review, the applicant shall be provided with a copy of the questions, a copy of the applicant's answer sheet or oral tape and a copy of the master answer sheet.

(7) The applicant may review the examination in the presence of a proctor. The applicant shall be provided with a form on which to write comments, questions or claims of error regarding any items in the examination. Bound reference books shall be permitted. Applicants shall not remove any notes from the area. Notes shall be retained by the proctor and made available to the applicant for use at a hearing, if desired. The proctor shall not defend the examination nor attempt to refute claims of error during the review.

(8) An applicant may not review the examination more than once.

OT 2.06 Board review of examination error claim. (1) An applicant claiming examination error shall file a written request for board review in the board office within 30 days of the date the examination was reviewed by the applicant. The request shall include all of the following:

(a) The applicant's name and address.

(b) The type of license for which the applicant applied.

(c) A description of the mistakes the applicant believes were made in the examination content, procedures, or scoring, including the specific questions or procedures claimed to be in error.

(d) The facts which the applicant intends to prove, including reference text citations or other supporting evidence for the applicant's claim.

(2) The board shall review the claim, make a determination of the validity of the objections and notify the applicant in writing of the board's decision and any resulting grade changes.

(3) If the decision does not result in the applicant passing the examination, a notice of denial of license shall be issued. If the board issues a notice of denial following its review, the applicant may request a hearing under s. RL 1.05.

Note: The board office is located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

OT 2.07 Temporary license. (1) An applicant for licensure may apply to the board for a temporary license to practice as an occupational therapist or occupational therapy assistant if the applicant does all of the following:

(a) Remits the fee specified in s. 440.05 (6), Stats.

(b) Is a graduate of an approved school and is scheduled to take the national certification examination for occupational therapist or occupational therapist assistant or has taken the national certification examination and is awaiting results.

(2) Practice during the period of the temporary license shall be in consultation, at least monthly, with an occupational therapist who shall at least once each month endorse the activities of the person holding the temporary license.

(3) An applicant with a temporary license may practice at no more than 2 separate employment locations.

(4) Except as specified in sub. (5), a temporary license expires on the date the applicant is notified that he or she has failed the national certification examination for permanent licensure or on the date the board grants or denies an applicant permanent licensure, whichever is later.

(5) A temporary license expires on the first day of the next regularly scheduled national certification examination for permanent licensure if the applicant is required to take, but failed to apply for, the examination.

(6) A temporary license may not be renewed.

CHAPTER OT 3

BIENNIAL REGISTRATION

OT 3.01 Authority and purpose. The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to govern biennial registration requirements for occupational therapists and occupational therapy assistants.

OT 3.02 Registration required; method of registration. Each licensee shall register biennially with the board. Prior to November 1 of each odd-numbered year the department shall mail to each licensee at his or her last known address as it appears in the records of the board an application form for registration. Each licensee shall complete the application form and return it with the required fee to the department. The board shall notify the licensee within 30 business days of receipt of a completed registration form whether the application for registration is approved or denied.

OT 3.03 Initial registration. Any licensee who is initially granted and issued a license during a given calendar year shall register for that biennium. The board shall notify the licensee within 30 business days of receipt of a completed registration form whether the application for registration is approved or denied.

OT 3.04 Registration prohibited. Any occupational therapist or occupational therapy assistant required to comply with the provisions of s. OT 3.06, and s. 448.967, (2), Stats., and who has not so complied, will not be permitted to register.

OT 3.05 Failure to be registered. Failure to renew a license by November 1 of odd numbered years shall cause the license to lapse. A licensee who allows the license to lapse may apply to the board for reinstatement of the license as follows:

(1) If the licensee applies for renewal of the license less than 5 years after its expiration, the license shall be renewed upon payment of the renewal fee and fulfillment of the continuing education requirements.

(2) If the licensee applies for renewal of the license more than 5 years after its expiration, the board shall make such inquiry as it finds necessary to determine whether the applicant is competent to practice under the license in this state, and shall impose any reasonable conditions on reinstatement of the license, including oral examination, as the board deems appropriate. All applicants under this section shall be required to pass the open book examination on statutes and rules, which is the same examination given to initial applicants.

OT 3.06 Continuing education. (1) Each holder of a license as an occupational therapist shall, at the time of applying for renewal of a license of registration under s. 448.07, Stats., certify that he or she has, in the 2 years preceding the renewal application, completed at least 24 points of acceptable continuing education.

(2) Each holder of a license as an occupational therapy assistant shall, at the time of applying for renewal of a license of registration under s. 448.967, Stats., certify that he or she has, in the 2 years preceding the renewal application, completed at least 24 points of acceptable continuing education.

(3) At least 12 of the points shall be accumulated through professional development activities related to occupational therapy in the following categories set forth in the following table.

PROFESSIONAL DEVELOPMENT ACTIVITIES	PROFESSIONAL DEVELOPMENT POINTS
(a) Attendance at academic credit courses.	4 points per academic credit.
(b) Attendance at seminars, workshops, lectures, professional conferences, interactive online courses and video courses.	1 point per contact hour of attendance.
Note: An online course or a mechanically or electronically	

recorded course qualifies for credit only if a qualified instructor is available to the participant to comment and answer questions.	
(c) Satisfactory completion of a self-study course approved by the American occupational therapy association (AOTA) or other related recognized professional associations.	4 points per continuing education unit.
(d) Satisfactory completion of an AOTA continuing education article (review and examination).	1 point per article.
(e) Attendance at employer-provided continuing education, including video and non-interactive online courses.	1 point per contact hour of attendance.
(f) Initial completion of specialty board certification in occupational therapy, including but not limited to certification in neurorehabilitation, pediatrics, hand therapy, gerontology, driver rehabilitation, advanced practice, neuro-developmental treatment, case management, and rehabilitation counseling.	12 points.
(g) Authorship of a book in occupational therapy or a related professional area.	12 points.
(h) Publication of one or more chapters of a book in occupational therapy or a related professional area.	6 points.
(i) Publication of an article in a non-peer-reviewed publication, such as OT Practice, SIS Quarterly, and Advance.	4 points.
(j) Publication of an article in peer-reviewed professional publications, including journals, book chapters, and research papers.	6 points.
(k) Development of alternative media materials, including computer software, programs and video instructional material.	6 points.
(L) Development of a quality assurance study for clinical program improvement.	6 points.
(m) Clinical or theoretical research as the principal researcher where an abstract is prepared.	12 points.
(n) Professional presentations. Note: No additional points are given for subsequent presentations of the same content.	2 points per contact hour.
(o) Providing or pursuing professional mentoring for skill advancement in occupational therapy.	1 point for each 2 contact hours.
(p) Student fieldwork supervision - Level I	4 points.

(q) Student fieldwork supervision - Level II	8 points.
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Note: "Contact hour" as used in the table means not less than 50 minutes of actual professional activity.

(4) Evidence of compliance with this section such as certificates of completion shall be retained by each license holder through the biennium following the biennium for which credit is required for renewal of license.

(5) The board may require any license holder to submit evidence of compliance with this section to the board for an audit at any time during the biennium following the biennium for which credit is required for license renewal.

CHAPTER OT 4

PRACTICE AND SUPERVISION

OT 4.01 Authority and purpose. The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to govern the standards of practice and supervision requirements for occupational therapists and occupational therapy assistants.

OT 4.02 Scope of practice. (1) "Occupational therapy," as defined at s. 448.96 (5), Stats., may include the following interventions:

(a) Remediation or restitution of performance abilities that are limited due to impairment in biological, physiological, psychological or neurological processes.

(b) Adaptation of task, process or environment, or the teaching of compensatory techniques, in order to enhance performance.

(c) Disability prevention methods and techniques which facilitate the development or safe application of performance skills.

(d) Health promotion strategies and practices which enhance performance abilities.

(2) Occupational therapy services include, but are not limited to the following:

(a) Screening, evaluating, developing, improving, sustaining or restoring skills in activities of daily living, work or productive activities, including instrumental activities of daily living, and play and leisure activities.

(b) Evaluating, developing, remediating, or restoring sensoimotor, cognitive, or psychosocial components of performance.

(c) Designing, fabricating or training in the use of assistive technology or orthotic devices, and training in the use of prosthetic devices.

(d) Adaptation of environments and processes, including the application of ergonomic principles, to enhance performance and safety in daily life roles.

(e) Application of physical agent modalities as an adjunct to or in preparation for engagement in occupations.

(f) Evaluating and providing intervention and case management in collaboration with the client, family, caregiver or others.

(g) Educating the client, family, caregiver, or others in carrying out appropriate nonskilled interventions.

(h) Consulting with groups, programs, organizations, or communities to provide population-based services.

OT 4.03 Standards of practice. Occupational therapists and occupational therapy assistants shall adhere to the minimum standards of practice of occupational therapy that have become established in the profession, including but not limited to the following areas:

(1) **SCREENING.** (a) An occupational therapist, alone or in collaboration with an occupational therapy assistant, when practicing either independently or as a member of a treatment team, shall identify individuals who present deficits or declines in occupational performance areas and performance components.

(b) Screening methods shall take into consideration the occupational performance contexts relevant to the individual.

(c) Screening methods may include interviews, observations, testing and records review to determine the need for further evaluation and intervention.

(d) The occupational therapist or occupational therapy assistant shall transmit screening results and recommendations to all appropriate persons.

(2) **REFERRAL.** (a) Evaluation and rehabilitative treatment shall be based on a referral from a licensed physician, dentist, psychologist, chiropractor, optometrist, physician assistant, advanced practice nurse, or podiatrist.

(b) An occupational therapist or occupational therapy assistant may accept a referral for the purpose of providing services which include consultation, habilitation, screening, prevention and client education services.

(c) Services that do not require referral include screening, consultation, habilitation, client education, wellness, prevention, environmental assessments, and work related services.

(d) Referrals may be for an individual case or may be for an established treatment program that includes occupational therapy services. If programmatic, the individual shall meet the criteria for admission to the program and protocol for the treatment program shall be established by the treatment team members.

(e) Referrals shall be in writing. However, oral referrals may be accepted if they are followed by a written and signed request of the person making the referral within 14 days from the date on which the client consults with the occupational therapist or occupational therapy assistant.

(f) Services that do not require a referral include but are not limited to screening, evaluation, consultation, habilitation, client education, prevention, wellness, environmental assessments or work related ergonomic services.

(g) Referral from another health care provider is not required for evaluation or intervention if an occupational therapist or occupational therapy assistant provides services in an educational environment, including the child's home, for children and youth with disabilities pursuant to rules promulgated by the federal individuals with disabilities education act, the department of public instruction and the department of health and family services, or provides services in an educational environment for children and youth with handicaps pursuant to the code of federal regulations.

(3) EVALUATION. (a) An occupational therapist alone or in collaboration with the occupational therapy assistant shall prepare an occupational therapy evaluation for each individual referred for occupational therapy services.

(b) The evaluation shall consider the individual's medical, vocational, social, educational, family status, and personal and family goals, and shall include an assessment of how occupational performance components and occupational performance contexts influence the individual's functional abilities and deficits in occupational performance areas.

(c) Evaluation methods may include observation, interviews, records review, and the use of structured or standardized evaluative tools or techniques.

(d) When standardized evaluation tools are used, the tests shall have normative data for the individual's characteristics. If normative data are not available, the results shall be expressed in a descriptive report. Collected evaluation data shall be analyzed and summarized to indicate the individual's current status.

(e) Evaluation results shall be documented in the individual's record and shall indicate the specific evaluation tools and methods used.

(f) Evaluation results shall be communicated to the referral source and to the appropriate persons in the facility and community.

(g) If the results of the evaluation indicate areas that require intervention by other health care professionals, the individual shall be appropriately referred or an appropriate consultation shall be requested.

(h) Initial evaluation shall be completed and results documented within the time frames established by the applicable facility, community, regulatory, or funding body.

(4) PROGRAM PLANNING. (a) An occupational therapist alone or in collaboration with the occupational therapy assistant shall use the results of the evaluation to develop an individual occupational therapy program.

(b) The program shall be stated in measurable and reasonable terms appropriate to the individual's needs, functional goals and prognosis and shall identify short and long term goals.

(c) The program shall be consistent with current principles and concepts of occupational therapy theory and practice.

(d) In developing the program, the occupational therapist alone or in collaboration with the occupational therapy assistant shall also collaborate, as appropriate, with the individual, family, other health care professionals and community resources; shall select the media, methods, environment, and personnel needed to accomplish the goals; and shall determine the frequency and duration of occupational therapy services provided.

(e) The program shall be prepared and documented within the time frames established by the applicable facility, community, regulatory, or funding body.

(5) PROGRAM IMPLEMENTATION. (a) The occupational therapy program shall be implemented according to the program plan previously developed.

(b) The individual's occupational performance areas and occupational performance components shall be routinely and systematically evaluated and documented.

(c) Program modifications shall be formulated and implemented consistent with the changes in the individual's occupational performance areas, occupational performance components and occupational performance contexts.

(d) All aspects of the occupational therapy program shall be routinely and systematically reviewed for effectiveness and efficacy.

(6) DISCONTINUATION OF SERVICES. (a) Occupational therapy services shall be discontinued when the individual has achieved the program goals or has achieved maximum benefit from occupational therapy.

(b) A comparison of the initial and current state of functional abilities and deficits in occupational performance areas and occupational performance components shall be made and documented.

(c) A discharge plan shall be prepared, consistent with the services provided, the individual's goals, and the expected prognosis. Consideration shall be given to the individual's occupational performance contexts including appropriate community resources for referral, and environmental factors or barriers that may need modification.

(d) Sufficient time shall be allowed for the coordination and effective implementation of the discharge plan.

(e) Recommendations for follow-up or reevaluation shall be documented.

OT 4.04 Practice by occupational therapy assistants. (1) An occupational therapy assistant must practice under the supervision of an occupational therapist when providing rehabilitation, neonate, early interventions, or school system practice. Supervision is an interactive process that requires both the occupational therapist and the occupational therapy assistance to share responsibility for communication between the supervisor and the supervisee. The occupational therapist shall determine which occupational therapy services to delegate to an occupational therapy assistant or non-licensed personnel based on the establishment of service competence between supervisor and supervisee.

(2) Supervision of an occupational therapy assistant by an occupational therapist shall be either close or general. The supervising occupational therapist shall have responsibility for the outcome of the performed service.

(3) When close supervision is required, the supervising occupational therapist shall have daily, direct contact on the premises with the occupational therapy assistant. The occupational therapist shall provide initial direction in developing the plan of treatment and shall periodically inspect the actual implementation of the plan. The occupational therapist shall countersign all client related documents prepared by the occupational therapy assistant.

(4) When general supervision is allowed, the supervising occupational therapist shall have direct contact on the premises with the occupational therapy assistant at least once every 2 weeks. In the interim between direct contacts, the occupational therapist shall maintain contact with the occupational therapy assistant by telephone, written reports and group conferences. The occupational therapist shall record in writing a specific description of the supervisory activities undertaken for each occupational therapy assistant. The written record shall include client name, status and plan for each client discussed.

(5) Close supervision is required for all rehabilitative services provided by an entry level occupational therapy assistant. All other occupational therapy services provided by an occupational therapy assistant may be performed under general supervision, if the supervising occupational therapist determines, under the facts of the individual situation, that general supervision is appropriate using established professional guidelines.

(6) In extenuating circumstances, when the supervising occupational therapist is absent from the job, the experienced occupational therapy assistant may carry out established programs for 30 calendar days. The occupational therapist must provide up-to-date documentation prior to absence.

OT 4.05 Supervision of occupational therapy aides. (1) An occupational therapist or occupational therapy assistant must provide direct supervision of an occupational therapy aide at all times.

(2) When an occupational therapist or occupational therapy assistant delegates to an occupational therapy aide maintenance or restorative services to clients, the occupational therapist or occupational therapy assistant must be in the immediate area and within audible and visual range of the client and the occupational therapy aide.

(3) An occupational therapist or occupational therapy assistant may delegate to an occupational therapy aide only specific tasks which are neither evaluative, assessive, task selective nor recommending in nature, and only after ensuring that the aide has been appropriately trained for the performance of the task.

(4) Occupational therapists and occupational therapy assistants must exercise their professional judgment when determining the number of occupational therapy aides they can safely and effectively supervise to ensure that quality care is provided at all times.

(5) Any duties assigned to an occupational therapy aide must be determined and appropriately supervised by an occupational therapist or occupational therapy assistant and must not exceed the level of training, knowledge, skill and competence of the individual being supervised. The licensed occupational therapist or occupational therapy assistant is responsible for the acts or actions performed by any occupational therapy aide functioning in the occupational therapy setting.

(6) An occupational therapist or occupational therapy assistant may delegate to an occupational therapy aide duties or functions other than maintenance or restorative services to the clients, including but not limited to the following services:

- (a) Transportation of clients.
- (b) Preparation or setting up of treatment equipment and work area.
- (c) Attending to clients' personal needs during treatment.
- (d) Clerical, secretarial or administrative duties.

(7) When an occupational therapist or occupational therapy assistant delegates to an occupational therapy aide duties or functions other than maintenance or restorative services to clients, the occupational therapist or occupational therapy assistant must provide direct

supervision. However, the occupational therapist or occupational therapy assistant is not required to remain within audible and visual range of the client.

(8) Duties or functions that an occupational therapist or occupational therapy assistant may not delegate to an occupational therapy aide include, but are not limited to, the following:

(a) Interpretation of referrals or prescriptions for occupational therapy services.

(b) Evaluative procedures.

(c) Development, planning, adjusting or modification of treatment procedures.

(d) Acting on behalf of the occupational therapist or occupational therapy assistant in any matter related to direct patient care which requires judgment or decision making.

(e) Any act performed independently or without supervision of an occupational therapist or occupational therapy assistant.

CHAPTER OT 5

UNPROFESSIONAL CONDUCT

OT 5.01 Authority and purpose. The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to establish the rules of conduct for occupational therapists and occupational therapy assistants.

OT 5.02 Unprofessional conduct defined. "Unprofessional conduct" means doing, or aiding or abetting, any of the following:

(1) Violating or attempting to violate any provision or term of ss. 448.96 to 448.970, Stats., or of any rule of the board.

(2) Violating or attempting to violate any term, provision, or condition of any order of the board.

(3) Knowingly making or presenting or causing to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other item in connection with any application for license.

(4) Practicing fraud, forgery, deception, collusion, or conspiracy in connection with any examination for license.

(5) Giving, selling, buying, bartering, or attempting to give, sell, buy, or barter any license.

(6) Engaging or attempting to engage in practice under any license under any given name or surname other than that under which originally licensed or registered to practice in this or any other state. This subsection does not apply to change of name resulting from marriage, divorce, or order by a court of record.

(7) Any practice or conduct which may constitute a danger to the health, welfare, or safety of client or public.

(8) Practicing or attempting to practice under any license when unable to do so with reasonable skill and safety to clients.

(9) Practicing or attempting to practice under any license beyond the scope of that license.

(10) Offering, undertaking, or agreeing to treat or cure a disease or condition by a secret means, method, device, or instrumentality; or refusing to divulge to the board upon demand the means, method, device, or instrumentality used in the treatment of a disease or condition.

(11) Representing that a manifestly incurable disease or condition may be or will be permanently cured; or that a curable disease or condition can be cured within a stated time, if this is not the fact.

(12) Knowingly making any false statement, written or oral, in practicing under any license, with fraudulent intent; or obtaining or attempting to obtain any professional fee or compensation of any form by fraud or deceit.

(13) Willfully divulging a privileged communication or confidence entrusted by a client or deficiencies in the character of clients observed in the course of professional attendance, unless lawfully required to do so.

(14) Engaging in uninvited, in-person solicitation of actual or potential clients who, because of their particular circumstances, are vulnerable to undue influence; or engaging in false, misleading or deceptive advertising.

(15) Having a license, certificate, permit, registration, or other practice credential granted by another state or by any agency of the federal government to practice occupational therapy, which becomes limited, restricted, suspended, or revoked, or having been subject to other adverse action by the state licensing authority or by any agency of the federal government including the denial or limitation of an original credential, or the surrender of a credential, whether or not accompanied by findings of negligence or unprofessional conduct.

(16) Conviction of any crime the circumstances of which substantially relate to the circumstances of the practice of occupational therapy. A certified copy of a judgment of a court record showing such conviction, within this state or without, shall be presumptive evidence.

(17) Aiding or abetting the unlicensed practice of occupational therapy.

(18) Violating or aiding and abetting the violation of any law or administrative rule or regulation the circumstances of which substantially relate to the circumstances of the practice of occupational therapy.

(19) Engaging in inappropriate sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a client. For the purposes of this subsection, an adult receiving treatment shall continue to be a client for 2 years after the termination of professional services. If the person receiving treatment is a minor, the person shall continue to be a client for the purposes of this subsection for 2 years after termination of services, or for 2 years after the client reaches 18 years of age, whichever is longer.

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____ Agency _____
Chairperson
Occupational Therapists Affiliated
Credentialing Board

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

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6/19/02