

Report From Agency

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

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
OCCUPATIONAL THERAPISTS : CR 13-109
AFFILIATED CREDENTIALING :
BOARD :**

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS:

N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA are attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

After a comprehensive review of its rules, the Occupational Therapists Affiliated Credentialing Board determined that its rules were outdated. The Board sought to address this issue by modernizing existing code language and making it consistent with current practice within the profession and with the American Occupational Therapy Association's Model Practice Act (AOTA). To that end, the proposed rule redefines key terms such as evaluation, referral, and occupational performance areas. The proposed rule also expands the occupational therapy services that an occupational therapist may perform and adds an ethics course to the list of acceptable professional development activities. By making these and other changes the proposed rule forwards the goal of s. 448.965 (c), Stats., by providing greater guidance to occupational therapists and occupational therapist assistants.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Occupational Therapists Affiliated Credentialing Board held a public hearing on February 10, 2014. The following people either testified at the hearing, or submitted written comments:

Ms. Teri Black, Legislative Co-Chair of the Wisconsin Occupational Therapy Association (WOTA).

Mr. Marcus Schick, President of the Wisconsin Physical Therapy Association (WPTA).

Kelly Waala, member of the Wisconsin Occupational Therapy Association (WOTA).

The Board summarizes the comments received either by hearing testimony or by written submission as follows:

Ms. Terri Black's comments on behalf of the WOTA are summarized as follows. The WOTA suggested including the term re-evaluation in its definitions section and adding to the definition of "order" a list of persons who can issue orders. Overall, the WOTA advocated distinguishing the terms "order" and "referral". The WOTA also suggested adding response to intervention (RtI) for minors in a school setting and telehealth as topics covered by the proposed rule. The WOTA also argued for the removal of physician referrals from the proposed rule as an unnecessary step in initiating occupational therapy services.

Mr. Marcus Schick's comments on behalf of the WPTA are summarized as follows. The WPTA questioned whether the Board should define the term "other qualified health professional" as found in s. OT 4.03 (2). The WPTA also questioned what are the differences between the terms "order" and "referral"? The WPTA further questioned the intent of s. OT 4.02 (2) (intro.) (Note) and whether the note was binding requiring the Board to update its list of occupational therapy interventions if the AOTA changes its Mode Practice Act. The WPTA suggested adding the term "peripheral joints" in s. OT 4.02 (2) (r) to clarify that it does not reference manual therapy to the spine. The WPTA also suggested changing the term "oral order" into the term "verbal order" as found in s. OT 4.03 (2) (d) due to the fact that term "verbal order" is much more commonly used in practice and further amend s. OT 4.03 (2) (d) to reference 3 days instead of 72 hours when a written order should be signed.

Ms. Kelly Waala, of the WOTA questioned whether a telephone order had to be signed within 72 hours from the date of the evaluation. She was in favor of adding an ethics course to the continuing education requirements.

The Board explains modifications to its rule-making proposal prompted by public comments as follows:

The Board's response to the WOTA's comments is as follows. The Board declined to add the term re-evaluation to the definitions section. The Board also declined to identify who can issue an order in the definition of the term "order" so as not to exclude health care professionals that can issue an order. The Board stated that both the discussion of Response to Intervention and telehealth were beyond the scope of the current rules and

declined to include the topics in the proposed rule. The Board disagreed with the WOTA that physician referrals was unnecessary and decided not to remove physician referrals from the proposed rule. The Board amended the definition of the term “referral” to distinguish it from the term “order”.

The Board responded to the WPTA’s comments in the following manner. The Board decided not to define the term “other qualified health care professional” and limit the term to a very short list in the rule. Instead, the Board decided to make the term more inclusive and open the term to other health care professionals that could be identified at a later time. The difference between the terms “order” and “referral” is very slight. The Board decided to amend the definition of the term “referral” found in s. OT 1.02 (22) by stating it is the “practice of requesting occupational therapy services.” The definition of the term “order” remained the same. With regards to the note found in s. OT 4.02 (2) (intro.) (Note), the note is not binding on the Board. If the AOTA Model Practice Act changes its list of occupational therapy interventions it will not result to a mandatory change to the OT rules. The Board rejected the WPTA’s suggestion to add the term “peripheral joints” in s. OT 4.02 (2) (r) as a point of clarification. The Board decided that the reference would suggest that manual therapy to the spine was not an OT function. The Board agreed with the WPTA in changing the term “oral order” to “verbal order” and amended the time period for written orders from 72 hours to 3 days.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment: 3. Conflict with or Duplication of Existing Rules

Is s. OT 2.07 (6) in conflict with sub. (4) which also addresses expiration of temporary licenses?

Response: The Board determined that the proposed revisions to OT 2.07 (6) were not in conflict with OT 2.07 (4) due to the national certification exam is computerized and can be administered at any time. In the past the exam was only administered twice a year. The Board wanted to avoid a situation where an applicant failed the national certification exam but was still able to practice under the temporary license for the remaining term of the license. The Board’s intent is that temporary permit holders may practice for a six month term unless they fail the national certification exam and that licensees may not renew a temporary license beyond one six month term.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in their entirety.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

None.