

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Licensure, Certification and Practice; Occupational Therapists and Occupational Therapy Assistants (LAC 46:XLV.Chapters 19 and 49)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1270, and the Louisiana Occupational Therapy Practice Act, R.S. 37:3001-3014, the board intends to amend its rules governing licensure, certification and practice of occupational therapists and occupational therapy assistants, LAC 46:XLV, Chapters 19 and 49 to update the rules and make substantive and technical modifications consistent with or made necessary by the passage of time and current practices of the Board. Among other items in Subpart 2, the changes incorporate certain revised definitions (§1903), update the sections on qualifications (§1907) and application procedure (§1913), repeal various sections relative to the licensing examination that are no longer necessary (§§1923-1929), update the reporting of examination scores (§1933), and consolidate and clarify the provisions relating to temporary and permanent licensure (§§1939-1955). The continuing professional education requirement is reduced from fifteen to twelve hours for license renewal (§1965) and for purposes of license reinstatement (§1975). Among other changes in Subpart 3, the definitions and other sections have been updated generally and to reflect changes in the controlling law (§§4903, 4909, 4911, 4915, 4917 and 4927), restate and update provisions respecting quality assurance and service competency (§4919), redesignate some sections (§§4921, 4929, 4931) and clarify and amend the requirements for supervision of occupational therapy assistants in various settings (§4925).

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 19. Occupational Therapists and Occupational Therapy Assistants

Subchapter A. General Provisions

§1903. Definitions

A. As used in this Chapter the following terms shall have the meanings specified.

* * *

Occupational Therapy—the application of any activity in which one engages for the purposes of evaluation, interpretation, treatment planning, and treatment of problems interfering with functional performance in persons impaired by physical illness or injury, emotional disorders, congenital or developmental disabilities, or the aging process, in order to achieve optimum functioning and prevention and health

maintenance. The occupational therapist may enter a case for the purposes of providing consultation and indirect services and evaluating an individual for the need of services. Prevention, wellness and education related services shall not require a referral; however, in workers' compensation injuries preauthorization shall be required by the employer or workers' compensation insurer or provider. Implementation of direct occupational therapy to individuals for their specific medical condition or conditions shall be based on a referral or order from a physician, advanced practice registered nurse, dentist, podiatrist, or optometrist licensed to practice in the state of Louisiana. Practice shall be in accordance with current standards of practice established by the American Occupational Therapy Association, Inc., and the essentials of accreditation established by the agencies recognized to accredit specific facilities and programs. Specific occupational therapy services include, but are not limited to, activities of daily living (ADL); the design, fabrication, and application of prescribed temporary splints; sensorimotor activities; the use of specifically designed crafts; guidance in the selection and use of adaptive equipment; therapeutic activities to enhance functional performance; prevocational evaluation and training; and consultation concerning the adaptation of physical environments for the handicapped. These services are provided to individuals or groups through medical, health, educational, and social systems.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:422 (March 2004), LR 41:

Subchapter B. Qualifications for License

§1907. Qualifications for License

A. To be eligible for a license, an applicant shall:

1. ...
2. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the United States Citizenship and Immigration Services (USCIS) of the United States, Department of Homeland Security, under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

3. ...
4. have taken and successfully passed the licensing examination required by the board in accordance with Subchapter D of this Chapter.

5. file an application for licensure in a format prescribed by the board;

6. present proof of current certification by the NBCOT in a manner as prescribed by the board.

B. ...

C. In addition to the substantive qualifications specified in §1907.A, to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided by §§1911 to 1915 of this Chapter and the

procedures and requirements for examination provided by §§1917 to 1935 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:422 (March 2004), LR 41:

Subchapter C. Application

§1913. Application Procedure

A. Application for licensing shall be made in a format prescribed by the board.

B. Application and instructions may be obtained from the board's web page or by personal or written request to the board.

C. An application for licensing under this Chapter shall include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in this Chapter;

2. a recent photograph of the applicant; and

3. such other information and documentation as the board may require to evidence qualification for licensing.

D. All documents required to be presented to the board or its designee must be the original thereof. For good cause shown, the board may waive or modify this requirement.

E. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application. The board may, in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

F. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:237 (February 2004), LR 41:

Subchapter D. Examination

§1923. Observance of Examination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:422 (March 2004), repealed, LR 41:

§1925. Subversion of Examination Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health

and Hospitals, Board of Medical Examiners, LR 30:423 (March 2004), repealed, LR 41:

§1927. Finding of Subversion

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:423 (March 2004), repealed, LR 41:

§1929. Sanctions for Subversion of Examination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:

§1933. Reporting of Examination Score

A. Applicants for licensure shall be required to authorize the NBCOT to release their test scores to the board each time the applicant-examinee attempts the examination according to the procedures for such notification established by NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:423 (March 2004), LR 41:

Subchapter E. Temporary License

§1939. License Pending Examination; Reexamination; Renewal

A. The board shall issue a temporary license to practice occupational therapy to an applicant who has completed the academic and supervised field work experience requirements specified under §1907 of this Chapter and has applied for and is waiting examination. The temporary license shall be valid for three months or until the date on which results of the qualifying examination have been known to and acted upon by the board, whichever is the longer.

B. An occupational therapist or occupational therapy assistant holding a temporary license issued under this Section may practice occupational therapy only under the direction of an occupational therapist licensed by the board, who shall provide such on premises, close supervision of and instruction to the temporary license holder as is adequate to ensure the safety and welfare of patients. The direction and supervision required with respect to:

1. an occupational therapist holding a temporary license under this Section shall be deemed to be satisfied by on-premises direction and immediate supervision by a licensed occupational therapist for not less than two hours each week;

2. an occupational therapy assistant holding a temporary license under this Section shall be deemed to be satisfied by on-premises direction and immediate supervision by a licensed occupational therapist for not less than 25 percent of the average weekly caseload.

C. A temporary license shall be renewable only once, subject to the same terms and conditions of this Section, if the applicant has not passed the examination or if the applicant has failed to take the examination. Exceptions to the one extension rule can be given at the discretion of the board upon a request identifying extenuating circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 14:351 (June 1988), LR 41:

§1940. Provisional Temporary Permit Pending Application for Visa

A. The board may issue a provisional temporary permit to an applicant for any license or permit provided for by these rules who is otherwise completely qualified for such license or permit, save for possessing an H-1 or equivalent visa as may be required by these rules, provided that the applicant has completed all applicable requirements and procedures for issuance of a license or permit and is eligible for an H-1 or equivalent visa under rules and regulations promulgated by the USCIS.

B. A provisional temporary permit issued under this Section shall be of the same type and scope, and subject to the same terms and restrictions, as the license or permit applied for, provided, however, that a provisional temporary permit issued under this Section shall expire, and become null and void, on the earlier of:

1. ...
2. 10 days following the date on which the applicant receives notice of USCIS action granting or denying the applicant's petition for an H-1 or equivalent visa; or
3. ...

C. The board may, in its discretion, extend or renew, for one or more additional 90-day periods, a provisional temporary permit issued hereunder which has expired pursuant to §1940.B.1, in favor of an applicant who holds a provisional temporary permit issued under this Section and who has filed a petition for H-1 or equivalent visa with the USCIS, but whose pending petition has not yet been acted on by the USCIS within 90 days from issuance of such provisional temporary permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:1144 (September 1993), amended LR 41:

§1941. License Pending Reexamination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 14:351 (June 1988), repealed LR 41:

§1942. Permit Pending Appearance before Board

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:340 (March 1993), repealed LR 41:

Subchapter F. License Issuance, Termination, Renewal and Reinstatement

§1943. Issuance of License

A. If the qualifications, requirements, and procedures prescribed or incorporated by §§1907 to 1915 are met to the satisfaction of the board, the board shall issue to the applicant a license to engage in the practice of occupational therapy in the state of Louisiana upon payment of the license fees set forth in Chapter 1 of the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:

§1945. Expiration of License

A. Every license issued by the board under this Chapter shall expire and thereby become null, void, and to no effect each year on the last day of the month in which the licensee was born.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:1499 (August 1998), LR 41:

§1947. Renewal of License

A. Every license issued by the board under this Subchapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal in a format prescribed by the board, together with the renewal fee prescribed in Chapter 1 of these rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter H of these rules.

B. Renewal application and instructions may be obtained from the board's web page or upon personal or written request to the board.

C. The renewal of a license which has expired for 60 days or less may be renewed by submitting to the board an application for renewal a manner prescribed by the board together with the late renewal fee prescribed in Chapter 1 of these rules.

D. Current NBCOT registration or certification is not a prerequisite to renewal of a license to practice as an occupational therapist or occupational therapy assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 24:1499 (August 1998), LR 30:237 (February 2004), LR 30:423 (March 2004), LR 41:

§1949. Reinstatement of License

A. ...

B. An application for reinstatement shall be made in a format prescribed by the board, together with the applicable late renewal and reinstatement fees prescribed in Chapter 1 of these rules.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 30:423 (March 2004), LR 41:

§1951. Titles of Licensees

A. Any person who is issued a license as an occupational therapist under the terms of this Chapter may use the words "occupational therapist," "licensed occupational therapist," or he may use the letters "OT" or "LOT," in connection with his name or place of business to denote his licensure. In addition, any person currently licensed by the board and certified or registered by and in good standing with the NBCOT, may use the words "licensed occupational therapist registered" or "occupational therapist registered" or "LOTR" or "OTR."

B. Any person who is issued a license as an occupational therapy assistant under the terms of this Chapter may use the words "occupational therapy assistant," "licensed occupational therapy assistant," or he may use the letters "OTA" or "LOTA" in connection with his name or place of business to denote his licensure. In addition, any person currently licensed by the board and certified as an assistant by and in good standing with the NBCOT, may use the designation "licensed certified occupational therapy assistant" or "LCOTA" or "certified occupational therapy assistant" or "COTA."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:423 (March 2004), LR 41:

§1953. Suspension and Revocation of License; Refusal to Renew

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repealed, by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:

Subchapter H. Continuing Professional Education

§1965. Continuing Professional Education Requirement

A. Subject to the exceptions specified in §1979 of this Subchapter, to be eligible for renewal of licensure an occupational therapist or occupational therapy assistant shall, within each year during which he or she holds licensure, evidence, and document in a manner prescribed by

the board, the successful completion of not less than 12 contact hours, or 1.2 continuing education units (CEUs).

B. One CEU constitutes 10 hours of participation in an organized continuing professional education program approved by the board and meeting the standards prescribed in this Subchapter; one continuing professional education hour is equal to one-tenth of a CEU. Twelve hours, or 1.2 CEUs, is required to meet the standards prescribed by this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1004 (September 1994), amended LR 41:

§1973. Documentation Procedure

A. Annual documentation and certification of satisfaction of the continuing professional education requirements prescribed by these rules shall accompany an applicant's annual renewal of licensure in a format prescribed by the board.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1005 (September 1994), amended LR 41:

§1975. Failure to Satisfy Continuing Professional Education Requirements

A. - A.3. ...

B. The license of an occupational therapist or occupational therapy assistant whose license has expired by nonrenewal or has been revoked for failure to satisfy the continuing professional education requirements of these rules may be reinstated by the board upon written application to the board, accompanied by payment of a reinstatement fee, in addition to all other applicable fees and costs, of \$50, together with documentation and certification that:

1. the applicant has, within the preceding 12 months, completed 12 contact hours (1.2 CEUs) of qualifying continuing professional education;

2. the applicant is currently certified by the NBCOT; or

3. the applicant has, within one year prior to making application for reinstatement, taken and successfully passed the recertification examination of the NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1005 (September 1994), amended LR 24:1499 (August 1998), LR 30:424 (March 2004), LR 41:

Subpart 3. Practice

Chapter 49. Occupational Therapists and Occupational Therapy Assistants

Subchapter A. General Provisions

§4903. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Activities of Daily Living—the components of everyday activity.

Activity Limitation—the exclusion of certain activities, or restrictions in method of duration of performance.

Assistive/Adaptive Equipment—a special device which assists in the performance of occupations.

* * *

Client—a person, group, program, organization or community for whom the occupational therapy practitioner is providing service (American Occupational Therapy Association).

Client Care Conference—a meeting between the supervising occupational therapist, who must have previously evaluated and/or treated the client, and an occupational therapy assistant to discuss client progress or lack thereof, client issues, revision of goals, initiation, modification or termination of an individual program plan, assessment of utilization of additional resources, discharge and any other information which may affect a client's plan of care. Except when specifically required in this Chapter to be conducted by face to face conference, such meeting may be undertaken by telephone or other means of telecommunication which allows for simultaneous interactive discussion between the supervising occupational therapist and occupational therapy assistant.

* * *

Cognitive Skills—actions or behaviors a client uses to plan and manage the performance of an activity.

* * *

Consultation—process of assisting a client, agency, or other provider by identifying and analyzing issues, providing information and advice and developing strategies for current and future actions.

Context—a variety of interrelated conditions within and surrounding the client that influences performance including, but not limited to, cultural, personal, temporal, virtual, physical and social.

Coping Skills—the ability to sublimate drives, find sources of need gratification, tolerate frustration and anxiety, experience gratification, and control impulses.

Documents—the written recording of information in the client's overall record/chart and/or in the occupational therapy record/chart.

* * *

Early Intervention Setting—a natural environment, such as a child's home, child care or other community setting in which children through 3 years of age (36 months) participate.

Education—an intervention process that involves the imparting of knowledge and information about occupation and activity. This does not include school based occupational therapy.

* * *

Kinetic Activities—those activities requiring motion. It can include activities of daily living and isometric, assistive, resistive exercises.

Louisiana Occupational Therapy Practice Act or the Act—R.S. 39:3001-3014 as hereafter amended or supplemented.

Mobility—moving from one place to another during the performance of everyday activities, including skills such as

getting in/or out of bed, chair, wheelchair, vehicles, using transportation, functional ambulation and transporting objects.

* * *

Occupational Therapy—the application of any activity in which one engages for the purposes of evaluation, interpretation, treatment planning, and treatment of problems interfering with functional performance in persons impaired by physical illness or injury, emotional disorders, congenital or developmental disabilities, or the aging process, in order to achieve optimum functioning and prevention and health maintenance. The occupational therapist may enter a case for the purposes of providing consultation and indirect services and evaluating an individual for the need of services. Prevention, wellness and education related services shall not require referral, however, in workers' compensation injuries preauthorization shall be required by the employer or workers' compensation insurer or provider. Implementation of direct occupational therapy to individuals for their specific medical condition or conditions shall be based on a referral or order from a physician, dentist, podiatrist, advanced practice registered nurse, or optometrist licensed to practice in the state of Louisiana. Practice shall be in accordance with current standards of practice established by the American Occupational Therapy Association, Inc., and the essentials of accreditation established by the agencies recognized to accredit specific facilities and programs. Specific occupational therapy services include, but are not limited to, activities of daily living (ADL); the design, fabrication, and application of prescribed temporary splints; sensorimotor activities; the use of specifically designed crafts; guidance in the selection and use of adaptive equipment; therapeutic activities to enhance functional performance; pre-vocational evaluation and training and consultation concerning the adaptation of physical environments for the handicapped. These services are provided to individuals or groups through medical, health, educational, and social systems.

* * *

Occupational Performance—the act of engaging in any occupation including activities of daily living (ADL), instrumental ADLs (IADL), rest and sleep, education, work, play, leisure, and social participation.

Performance Skills—the abilities clients demonstrate in the actions they perform. The learned and developmental patterns of behavior which are the prerequisite foundations of occupation. The performance skills components include: motor skills, sensory perceptual skills, praxis skills, emotional regulation, communication and social/skills.

Periodically—occurring at regular intervals of time not less than every two weeks or the sixth visit, whichever comes first.

* * *

Self-Care Skills—activities that are oriented toward taking care of one's own body, including, but not limited to, skills such as bathing, showering, bowel and bladder management, dressing, eating, feeding, functional mobility, personal device care, hygiene/grooming, sexual activity, and toilet hygiene.

* * *

Wellness—an active process through which individuals become aware of and make choices toward a more successful existence. Wellness is more than a lack of disease symptoms. It is a state of mental and physical balance and fitness.

* * *

Work Skills—skills such as habits, workmanship, actual skills related to specific job tasks. The skills may refer to the work of the student, paid employee, retiree or volunteer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1976 (September 2002), LR 30:424 (March 2004), LR 41:

Subchapter B. Standards of Practice

§4907. Screening

A. Occupational therapists have the responsibility to identify clients who may present problems in occupational performance that would require an evaluation.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:

§4909. Referral

A. A client is appropriately referred to occupational therapy for remediation, maintenance, or prevention when the client has, or appears to have, a dysfunction or potential for dysfunction in occupational performance or performance skills.

B. ...

C. The occupational therapist enters a case at the request of a Louisiana licensed physician, dentist, podiatrist, optometrist or advanced practice nurse practitioner; assumes full responsibility for the occupational therapy evaluation and; and, in consultation with the referring physician, dentist, podiatrist, optometrist or advanced practice nurse practitioner, establishes the appropriate type, nature, and mode of service.

D. Occupational therapists shall refer clients back to the physician, dentist, podiatrist, optometrist or advanced practice nurse practitioner when, in the judgment of the occupational therapists, the knowledge and expertise of another professional is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:

§4911. Evaluation

A. Occupational therapists shall evaluate the client's performance according to the current AOTA guidelines.

B. Initial occupational therapy evaluations shall consider the client's medical, vocational, educational, activity, context, environment, social history, and personal/family goals.

C. The occupational therapy evaluation shall include assessment of the functional abilities and deficits as related to the client's needs in the following areas:

1. occupational performance: activities of daily living, instrumental activities of daily living, rest and sleep, education, work, play, leisure, and social participation;

2. performance components: sensory perceptual skills, motor, praxis skills, emotional regulation, communication, social skills, cognitive, and psychosocial;

3. therapeutic adaptations and prevention, context and environment.

D. - H. ...

I. Occupational therapists shall communicate evaluation results to the referring physician, dentist, podiatrist, optometrist or advanced practice registered nurse and/or appropriate persons in the facility.

J. If the results of the evaluation indicate areas that require intervention by other professionals, the occupational therapist should refer the client back to the physician, dentist, podiatrist, optometrist or advanced practice registered nurse or appropriate persons in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:

§4915. Individual Program Implementation

A. Implementation of direct occupational therapy to individuals for their specific medical condition or conditions shall be based on a referral or order from a physician, dentist, podiatrist, optometrist or advanced practice registered nurse licensed to practice in the state of Louisiana.

B. ...

C. Occupational therapists shall formulate and implement program modifications consistent with changes in the client's occupational performance and performance skills.

D. Occupational therapists shall periodically re-evaluate and document the client's occupational performance and performance skills.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1977 (September 2002), LR 41:

§4917. Discontinuation of Services

A. ...

B. Occupational therapists shall document the comparison of the initial and current state of functional abilities and deficits in occupational performance and performance skills.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR

12:767 (November 1986), amended, by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:

§4919. Quality Assurance and Service Competency

A. - B. ...

C. Any occupational therapist supervising an occupational therapy assistant must have performed and documented a service competency on the occupational therapy assistant. The occupational therapist must have previously evaluated and/or treated any client being seen by an occupational therapy assistant he or she is supervising. In addition:

1. Initial Service Competency. Following acceptance of responsibility to supervise an occupational therapy assistant, but prior to utilization of such assistant in the implementation of any client program plan or other administration of occupational therapy to a client, the supervising occupational therapist shall initially evaluate and document the occupational therapy assistant's service competency to administer all occupational therapy services which are to be performed under his or her supervision and direction. The service competency is designed to document the occupational therapy assistant's skill set;

2. Annual Service Competency. Following such an initial evaluation the supervising occupational therapist shall thereafter annually conduct and document a service competency to determine the occupational therapy assistant's skill set;

3. Documentation of Service Competency. Documentation of initial and annual competency shall include the date the evaluation was performed, a description of the tasks evaluated, and the name, signature and Louisiana license number of the supervising occupational therapist conducting the service competency evaluation;

4. in practice settings where an occupational therapy assistant is supervised by more than one occupational therapist, service competencies (initial and/or annual) performed by one supervising occupational therapist will satisfy the requirements of this Section for all occupational therapists supervising the occupational therapy assistant in the performance of the same services, provided that their name, signature and Louisiana license number appears on the evaluation;

5. a supervising occupational therapist shall insure such documentation is maintained by the occupational therapy assistant and at each clinic, facility or home health agency where the occupational therapy assistant practices under his or her supervision.

D. A supervising occupational therapist is responsible for and must be capable of demonstrating compliance with the requirements of this Chapter and AOTA supervision guidelines respecting supervision of occupational therapy assistants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270.B.(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1977 (September 2002), LR 41:

§4923. Reserved

§4925. Supervision of Occupational Therapy Assistants

A. - D.3....

E. In addition to the terms and conditions specified in §4919 and §4925.A-D, the following additional requirements are applicable to an occupational therapy assistant's administration of occupational therapy under the supervision of an occupational therapist.

1. In any clinical setting, other than specified by §4925.E.3:

a. an occupational therapy assistant with less than one year of practice experience:

i. shall receive close client care supervision in each clinical setting for not less than one of every four, or 25+ percent, of those clients to whom he or she has administered occupational therapy during an average weekly case load;

ii. in addition, a client care conference shall be held with respect to each client to whom the occupational therapy assistant administers occupational therapy;

b. an occupational therapy assistant with more than one but less than two years of practice experience:

i. shall receive close client care supervision in each clinical setting for not less than one of every 10, or 10 percent, of those clients seen during an average weekly case load;

ii. in addition, a client care conference shall be held with respect to each client to whom the occupational therapy assistant administers occupational therapy;

c. an occupational therapy assistant with more than two years of practice experience:

i. shall receive a client care conference with respect to each client to whom the occupational therapy assistant administers occupational therapy.

2. School System, Long-Term Psychiatric and Nursing Home Facility Settings. In addition to the requirements prescribed in §4925.E.1, clients in school system, long-term psychiatric or nursing home facility settings shall be re-evaluated or treated by the supervising occupational therapist not less frequently than the earlier of once a month or every sixth treatment session.

3. - 3.c....

4. Early Intervention Setting. The terms and conditions prescribed by §4925.E.1 shall not be applicable to an early intervention setting. An occupational therapy assistant may assist in implementation of a client program plan in an early intervention setting under the supervision of an occupational therapist provided all the following terms, conditions and restrictions of this Chapter, except §4925.E.1, are strictly observed:

a. an occupational therapy assistant shall have had not less than two years practice experience in providing occupational therapy prior to administering occupational therapy in an early intervention setting;

b. each client in an early intervention setting to whom an occupational therapy assistant administers occupational therapy shall be re-evaluated or treated by the

supervising occupational therapist not less frequently than the earlier of once a month or every sixth treatment session; and

c. a client care conference shall occur not less frequently than the earlier of once every month or every sixth treatment session to discuss all clients to whom the occupational therapy assistant has administered occupational therapy in an early intervention setting. Such conference shall be documented and maintained by the supervising occupational therapist in a supervisory log.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270.B.(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:340 (March 1993), amended LR 28:1977 (September 2002), LR 41:

Subchapter C. Unauthorized Practice, Prohibitions and Causes for Administrative Action

§4927. Unauthorized Practice

A. No individual shall engage in the practice of occupational therapy in this state in the absence of a current license or permit duly issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:

§4929. False Representation of Licensure Prohibited [Formerly §1955]

A. No person who is not licensed under this Chapter as an occupational therapist or an occupational therapy assistant, or whose license has been suspended or revoked, shall use, in connection with his name or place of business, the words "occupational therapist," "licensed occupational therapist," "occupational therapy assistant," "licensed occupational therapy assistant," or the letters, "OT," "LOT," "OTA," "LOTA," or any other words, letters, abbreviations, or insignia indicating or implying that he is an occupational therapist or an occupational therapy assistant, or in any way, orally, in writing, in print, or by sign, directly or by implication, represent himself as an occupational therapist or an occupational therapy assistant.

B. No person who is not licensed under this Chapter as an occupational therapist or an occupational therapy assistant, or whose license has been suspended or revoked, who is not currently certified or registered by and in good standing with the NBCOT shall use, in connection with his name or place of business, the words "occupational therapist registered," "licensed occupational therapist registered," "certified occupational therapy assistant," or "licensed certified occupational therapy assistant" or the letters, "OTR," "LOTR," or "COTA," or "LCOTA" or any other words, letters, abbreviations, or insignia indicating or implying that he is an occupational therapist registered or a certified occupational therapy assistant, or in any way, orally, in writing, in print, or by sign, directly or by implication, represent himself as such.

C. Whoever violates the provisions of this Section shall be fined not more than \$500 or be imprisoned for not more than six months, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:424 (March 2004), repromulgated LR 41:

§4931. Suspension and Revocation of License; Refusal to Issue or Renew; Unprofessional Conduct [Formerly 4921]

A. The board may refuse to issue or renew, may suspend or revoke, or may impose probationary conditions on any occupational therapy or occupational therapy assistant license, if the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or likely to endanger the health, welfare, or safety of the public.

B. As used herein and R.S. 37:3011, *unprofessional conduct* by an occupational therapist or occupational therapy assistant shall mean:

1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of Louisiana, of the United States, or of the state in which such conviction or plea was entered;
2. conviction of a crime or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with the practice of occupational therapy;
3. perjury, fraud, deceit, misrepresentation, or concealment of material facts in obtaining a license to practice occupational therapy;
4. providing false testimony before the board or providing false sworn information to the board;
5. habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;
6. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading;
7. making or submitting false, deceptive, or unfounded claims, reports, or opinions to any patient, insurance company, or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;
8. cognitive or clinical incompetency;
9. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of occupational therapy practice in this state;
10. knowingly performing any act which in any way assists an unlicensed person to practice occupational therapy, or having professional connection with or lending one's name to an illegal practitioner;
11. paying or giving anything of economic value to another person, firm, or corporation to induce the referral of patients to the occupational therapist or occupational therapy assistant;
12. interdiction by due process of law;
13. inability to practice occupational therapy with reasonable competence, skill, or safety to patients because of mental or physical illness, condition or deficiency, including

but not limited to deterioration through the aging process and excessive use or abuse of drugs, including alcohol;

14. refusal to submit to examination an inquiry by an examining committee of physicians appointed by the board to inquire into the licensee's physical and/or mental fitness and ability to practice occupational therapy with reasonable skill or safety to patients;

15. practicing or otherwise engaging in any conduct or functions beyond the scope of occupational therapy as defined by the Act or these rules;

16. the refusal of the licensing authority of another state to issue or renew a license, permit, or certificate to practice occupational therapy in that state, or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents, restricts, or conditions practice in that state, or the surrender of a license, permit, or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit, or certificate;

17. violation of the code of ethics adopted and published by the American Occupational Therapy Association, Inc. (AOTA); or

18. violation of any rules and regulations of the board, or any provisions of the Act, as amended, R.S. 37:3001-3014.

C. Denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a licensee may be ordered by the board in a decision made after a hearing in accordance with the Administrative Procedure Act and the applicable rules and regulations of the board. One year after the date of the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement but shall hold a hearing to consider such reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3011.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:885 (September 1991), repromulgated LR 41:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with development disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4:00 p.m., November 19, 2014.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on November 24, 2014, at 11:00 o'clock a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Cecilia Mouton, M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Licensure, Certification and Practice; Occupational Therapists and Occupational Therapy Assistants

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Other than one-time costs for notice and Rule publication estimated at a total of \$2,578 in FY 15, it is not anticipated that the proposed Rule changes will result in any additional costs or savings to the board or other state or local governmental units. The Board of Medical Examiners proposes to amend its Rules governing the licensure, certification and practice of occupational therapists and occupational therapy assistants (LAC 46:XLV.Chapters 19 and 49), to update the Rules to reflect current board and professional practices, and to codify the rules to conform to policies and practices currently administered by the board.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated effects on the board's revenue collections or that of any other state or local governmental unit anticipated from the proposed amendments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule changes update definitions and practice standards, insert additional language provided in the law, and make technical changes to reflect current board and professional practices. The board does not anticipate that implementation of the proposed changes will result in any adverse costs and/or economic impact to occupational therapists, occupational therapy assistants, licensure applicants or any other non-governmental group. Consistent with national certification renewal cycle requirements, the proposed changes reduce the continuing professional education requirement from 15 to 12 hours for annual license renewal (§1965) and make the same change for license reinstatement (§1975). Due to the varying costs for obtaining continuing education program credits, the board is not in a position to estimate the cost-savings attributable to these proposed changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

It is not anticipated that the proposed changes will have any material impact on competition or employment in either the public or private sector.

Celia Mouton, M.D.	John D. Carpenter
Executive Director	Legislative Fiscal Officer
1410#046	Legislative Fiscal Office