

**REVISED PROPOSED REGULATION OF THE
BOARD OF OCCUPATIONAL THERAPY**

LCB File No. R067-17

February 8, 2018

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-7, 19-20, 22, 24 and 26, NRS 640A.110; §8, NRS 640A.110 and 640A.140; §§9 and 14, NRS 640A.110 and 640A.120; §§10-12 and 15-18, NRS 640A.110 and 640A.180; §13, NRS 640A.110 and 640A.170, §21, NRS 640A.110, 640A.166 and 640A.190; §§23, 25, 27 and 28, NRS 640A.110 and 640A.230; §29, NRS 640A.110 and 640A.200.

A REGULATION relating to occupational therapy; revising provisions relating to the supervision of occupational therapy assistants and provisional licensees; revising certain provisions relating to the licensing of occupational therapists and occupational therapy assistants; revising provisions relating to continuing education requirements for occupational therapists and occupational therapy assistants; revising provisions relating to payments made to the Board of Occupational Therapy; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of Occupational Therapy to regulate the practice of occupational therapy in this State. (NRS 640A.110) Existing law further requires the Board to adopt regulations relating to the issuance and renewal of licenses to practice occupational therapy. (NRS 640A.180) Existing regulations generally establish the requirements and procedure for obtaining a license to practice occupational therapy in this State. (Chapter 640A of NAC) **Section 6** of this regulation changes the term “active license” to “standard license.” **Section 8** of this regulation removes the requirement for an application submitted to the Board to be notarized and instead requires an applicant to submit a signed statement certifying that the information provided in the application is accurate. **Section 9** of this regulation requires an applicant for a license to achieve a passing score on the Nevada Occupational Therapy Jurisprudence Examination. **Section 11** of this regulation requires an applicant for license reinstatement to achieve a passing score on the Nevada Occupational Therapy Jurisprudence Examination to have his or her license reinstated. **Section 14** of this regulation removes the requirement for an applicant seeking to convert a provisional license to a standard license to

submit an official transcript from the occupational therapy program he or she attended because the applicant is required to prove his or her graduation from such a program to obtain the provisional license.

Existing law requires the Board to adopt regulations prescribing the period for which a license issued by the Board is valid. (NRS 640A.180) **Section 10** of this regulation provides that a standard license issued by the Board is valid for 2 years after the date on which the license was issued.

Existing law also provides that if a person applying for a license by endorsement is an active member of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran, the Board is required to reduce by one-half the fee for the initial issuance of the license. (NRS 640A.166, 640A.190) **Section 21** of this regulation reduces by one-half the fee charged by the Board to an applicant for initial licensure who is an active member of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran.

Section 16 of this regulation requires a licensee to achieve a passing score on the Nevada Occupational Therapy Jurisprudence Examination at least once every 5 years.

Section 4 of this regulation requires a primary supervisor of an occupational therapy assistant or provisional licensee to review and approve monthly supervisory logs maintained by both the treating occupational therapist and the occupational therapy assistant or licensee. **Sections 23-28** of this regulation make various other changes to the supervision of occupational therapy assistants and provisional licensees.

Existing regulation establishes a fee charged by the Board for each check payment returned to the Board because the person had insufficient funds to pay the check. (NAC 640A.155) **Section 20** of this regulation applies this fee to other types of returned or cancelled payments.

Existing regulations prohibit a licensee from practicing, condoning, facilitating or collaborating in any type of discrimination toward a patient based on certain characteristics of the patient. (NAC 640A.220) **Section 22** of this regulation extends this prohibition to discrimination toward a patient based on the gender identity or expression of the patient. **Section 22** also amends the professional duties of a licensee to use professional judgment in determining the frequency of direct contact with a patient and to ensure the frequency of such contact complies with federal and state regulations.

Section 29 of this regulation removes a provision of existing regulations authorizing the Board to issue a private reprimand to a licensee who has committed certain unprofessional conduct.

Section 1. Chapter 640A of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. *“Primary supervisor” means a licensed occupational therapist who is responsible for the general supervision of an occupational therapy assistant or provisional licensee during his or her term of employment.*

Sec. 3. *“Treating occupational therapist” means a licensed occupational therapist who is responsible for the program of treatment of a patient.*

Sec. 4. 1. *A primary supervisor of an occupational therapy assistant or a provisional licensee shall review and approve monthly supervisory logs maintained by both the treating occupational therapist and the occupational therapy assistant or provisional licensee.*

2. A treating occupational therapist shall provide general supervision, as described in NAC 640A.250, to an occupational therapy assistant or provisional licensee to whom he or she delegated duties for the provision of care to a patient.

Sec. 5. NAC 640A.010 is hereby amended to read as follows:

640A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 640A.011 to 640A.017, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

Sec. 6. NAC 640A.011 is hereby amended to read as follows:

640A.011 ~~“Active”~~ *“Standard”* license” means a license as an occupational therapist or occupational therapy assistant issued by the Board pursuant to NAC 640A.041.

Sec. 7. NAC 640A.0135 is hereby amended to read as follows:

640A.0135 “Inactive license” means a ~~once active~~ *standard* license that is no longer *in* active *status* pursuant to NAC 640A.068.

Sec. 8. NAC 640A.030 is hereby amended to read as follows:

640A.030 1. In order to receive, renew, reinstate or convert the status of, as applicable, any type of license issued by the Board, an applicant must complete an application to be provided by the Board.

2. An application must be accompanied by payment of the appropriate fee or fees . ~~†, which may be prorated by the Board if the initial period of the license will be shorter than usual for that license.†~~

3. An application submitted to the Board must ~~†be notarized if so required.†~~ *include a statement signed by the applicant certifying that the information provided in the application is accurate.*

4. An application must be submitted to the Board by the applicable date, if any.

5. If an applicant is required to provide an official transcript from an educational program that is accredited by an agency approved by the Board or from an educational program in another country, the applicant must ensure that:

(a) A sealed, official transcript is attached to his or her application; or

(b) A sealed, official transcript is sent directly from his or her educational program to the Board.

6. If an applicant is required to provide proof of certification as an occupational therapist registered or a certified occupational therapy assistant, the applicant must ensure that proof of

certification *issued by the certifying agency* is ~~sent directly~~ *submitted* to the Board . ~~by the agency who certified the applicant.~~

7. If an applicant is required to provide proof of a license obtained in another state, territory or country, the applicant must ensure that ~~:~~

~~—(a) A copy of the license is attached to his or her application; and~~

~~—(b) Additional~~ proof of such a license ~~is sent directly by~~ *issued by* an official governmental entity *is submitted* to the Board for:

~~1)~~ (a) Any such license presently held; and

~~2)~~ (b) Any such license held within 5 years of the submission of the application.

8. If an applicant is required to provide proof of employment and supervision by an occupational therapist in this State, the applicant must ensure that proof of such employment and supervision is ~~sent directly~~ *submitted* to the Board, ~~on~~ *in* a ~~form to be provided~~ *format approved* by the Board, by the applicable date, if any.

9. If an applicant is required to complete continuing education, the applicant must provide to the Board proof of completion of continuing education, when requested by the Board.

10. The Board will not accept an application for the renewal of a *standard* license if the application is submitted more than 30 days after the date on which the license expired.

Sec. 9. NAC 640A.041 is hereby amended to read as follows:

640A.041 In addition to the requirements set forth in NAC 640A.030, to be eligible to obtain ~~an active~~ *a standard* license, a person must:

1. Have graduated from:

- (a) An educational program which is accredited by an agency approved by the Board and which includes a fieldwork program; or
- (b) An educational program in another country;
- 2. Have achieved a passing score on ~~{an examination provided by an agency approved by}~~ the ~~{Board; and}~~ *Nevada Occupational Therapy Jurisprudence Examination;*
- 3. Have current certification as an occupational therapist registered or certified occupational therapy assistant ~~{; and}~~
- 4. *Be a citizen of the United States or otherwise have the legal right to work in the United States.*

Sec. 10. NAC 640A.050 is hereby amended to read as follows:

- 640A.050 1. A *standard* license issued by the Board *, including, without limitation, a standard license that has been converted to inactive status,* expires ~~{on a}~~ *2 years after the* date ~~{to be established by}~~ *on which* the ~~{Board.}~~ *license was issued.*
2. In addition to any other applicable requirements of NAC 640A.030, to renew ~~{an active}~~ *a standard* license, a person must provide to the Board the materials required by subsection ~~{5}~~ *6* of NAC 640A.070.

Sec. 11. NAC 640A.055 is hereby amended to read as follows:

- 640A.055 1. ~~{An active}~~ *A standard* license that has expired may be reinstated within 5 years of its expiration.
2. In addition to any other applicable requirements set forth in NAC 640A.030, to reinstate an expired ~~{active}~~ *standard* license, a person must:

- (a) Provide proof of certification as an occupational therapist registered or certified occupational therapy assistant;
- (b) Provide proof of the completion of 12 hours of continuing education within the year immediately preceding the request for reinstatement; ~~and~~
- (c) *Have achieved a passing score on the Nevada Occupational Therapy Jurisprudence Examination within the year immediately preceding the request for reinstatement; and*
- (d) For the reinstatement of an expired ~~active~~ *standard* license as an occupational therapy assistant, submit proof of employment and supervision by a licensed occupational therapist upon reinstatement of the license.

Sec. 12. NAC 640A.060 is hereby amended to read as follows:

640A.060 If a person whose ~~active~~ *standard* license as an occupational therapist or occupational therapy assistant has been expired for 5 years or more, he or she must apply for a license as if he or she were a new applicant.

Sec. 13. NAC 640A.062 is hereby amended to read as follows:

640A.062 1. A person who is currently certified as an occupational therapist registered or certified occupational therapy assistant and who holds a license that is active and in good standing as an occupational therapist or occupational therapy assistant issued in another state or territory of the United States may apply to the Board for a temporary license to practice in this state by meeting the requirements set forth in NAC 640A.030.

- 2. A temporary license expires 6 months after the date on which it is issued.
- 3. A temporary license may be renewed not more than once.
- 4. A temporary license may be converted to ~~an active~~ *a standard* license if the person:

- (a) Meets the requirements set forth in NAC 640A.030 and 640A.041; and
- (b) For a temporary license as an occupational therapy assistant, submits proof of employment and supervision by a licensed occupational therapist upon conversion of the license.

5. A person who has previously been issued a temporary license may not apply for another temporary license until 6 months after the expiration of his or her last original or renewed temporary license, as applicable.

Sec. 14. NAC 640A.065 is hereby amended to read as follows:

640A.065 1. A provisional license may be granted to a person:

- (a) Who meets the requirements set forth in NAC 640A.030;
- (b) Who has graduated from an educational program which is accredited by an agency approved by the Board and which includes a fieldwork program;
- (c) Who submits proof of employment and supervision by a licensed occupational therapist upon receiving the license; and
- (d) Who:

(1) Is not certified as an occupational therapist registered or a certified occupational therapy assistant; or

(2) Has not yet achieved a passing score on an examination provided by an agency approved by the Board but is eligible and scheduled to take such an examination, with the results to be sent directly to the Board.

2. If a person who was previously certified receives a provisional license and the person has not practiced occupational therapy within 5 years before receipt of the license, the person must,

while holding the license, complete a minimum of 640 hours of supervised practice under a licensed occupational therapist.

3. A provisional license expires 6 months after the date on which it is issued or renewed.

4. A provisional license may be renewed not more than once.

5. A provisional licensee may convert his or her provisional license to ~~{an active}~~ *a standard* license if, in addition to the requirements set forth in NAC 640A.030 ~~{:}~~ *and 640A.041:*

(a) The Board receives proof of the certification of the provisional licensee as an occupational therapist registered or a certified occupational therapy assistant; *and*

(b) ~~{The licensee provides an official transcript from an educational program that is accredited by an agency approved by the Board; and~~

~~—(e)}~~ If applicable, the licensee has completed 640 hours of supervised practice under a licensed occupational therapist.

Sec. 15. NAC 640A.068 is hereby amended to read as follows:

640A.068 1. In addition to the requirements set forth in NAC 640A.030, to convert ~~{an active}~~ *a standard* license to an inactive license:

(a) The license must ~~{be active and}~~ not be suspended, revoked or otherwise restricted at the time of the request; and

(b) The person must complete a form to be provided by the Board indicating that he or she no longer practices or represents to others that he or she is authorized to practice occupational therapy in this State.

2. A person with an inactive license must comply with the same requirements for continuing education as a person who holds ~~{an active}~~ *a standard* license.

3. To renew an inactive license, a person must meet the requirements of NAC 640A.030.
4. The holder of an inactive license may request that the license be converted to ~~an active~~
a standard license.
5. In addition to the requirements set forth in NAC 640A.030, to convert an inactive license to ~~an active~~ *a standard* license, a person must:
 - (a) Make a written request to the Board; and
 - (b) For ~~an inactive license as~~ an occupational therapy assistant, submit proof of employment and supervision by a ~~licensed occupational therapist~~ *primary supervisor* upon conversion of the license.

Sec. 16. NAC 640A.070 is hereby amended to read as follows:

640A.070 1. Except as otherwise provided in subsection ~~4~~ *5* and NAC 640A.101, a person with ~~an active~~ *a standard* license shall complete, to the satisfaction of the Board, at least 12 hours of continuing education per year.

2. If the licensee obtains more than 12 hours of continuing education in a year, he or she may request that the Board carry over a maximum of 10 hours to apply towards completion of his or her requirement for continuing education for the following ~~renewal period~~ *year*.

3. *A licensee must achieve a passing score on the Nevada Occupational Therapy Jurisprudence Examination at least once every 5 years.*

4. A person may receive credit for fieldwork supervision, ~~for~~ the completion of a particular continuing education course *or the achievement of a passing score on the Nevada Occupational Therapy Jurisprudence Examination* only once during two successive ~~renewal periods~~
~~4~~ *years*.

5. A person who obtains ~~an active~~ *a standard* license within 12 months of graduation from an educational program which is accredited by an agency approved by the Board and which includes a fieldwork program is not required to obtain any hours of continuing education ~~in order to renew~~ *within the first year of obtaining* the license . ~~for the first time.~~

~~5.~~ 6. A licensee shall comply with the requirements for continuing education, including, without limitation, submitting to the Board a completed form to be provided by the Board and a list of any courses and activities that the licensee completed to satisfy the provisions of this section. The materials described in this subsection must be submitted at the time, as established by the Board, the licensee is required to submit to the Board the application for the renewal of his or her license.

~~6.~~ 7. To ensure compliance with the provisions of this section, the Board will conduct random audits of the continuing education completed by licensees.

Sec. 17. NAC 640A.090 is hereby amended to read as follows:

640A.090 1. The subject matter for continuing education activities includes, without limitation:

(a) Research relating to occupational therapy;

(b) Theoretical or practical courses relating to the practice of occupational therapy;

(c) The development, administration, supervision or teaching of the clinical practice of occupational therapy; ~~and~~

(d) Service delivery programs performed by an occupational therapist or occupational therapy assistant ~~;~~ *and*

(e) Statutes and regulations in this State relating to occupational therapy.

2. Activities that qualify as continuing education include, without limitation:

(a) Attendance and participation at a live presentation:

(1) Which includes, without limitation, a workshop, seminar, conference or in-service educational program; and

(2) Which is afterwards followed by the submission of a certificate of completion or other similar document and a completed form to be provided by the Board, which will include, without limitation, a narrative statement that describes how the activity broadens the person's knowledge of occupational therapy or relates to current or anticipated roles and responsibilities of the person in the practice of occupational therapy;

(b) Participation in a course of self-study that requires a formal assessment of learning:

(1) Which includes, without limitation, self-study through an electronic or Internet-based course, a self-paced clinical course or any other formalized self-administered course; and

(2) Which is afterwards followed by the submission of a certificate of completion or other similar document and a completed form to be provided by the Board, which will include, without limitation, a narrative statement that describes how the activity broadens the person's knowledge of occupational therapy or relates to current or anticipated roles and responsibilities of the person in the practice of occupational therapy;

(c) Enrollment in an academic course:

(1) Which includes, without limitation, an on-site or distance learning course; and

(2) Which is afterwards followed by the submission of a copy of a transcript indicating successful completion of the course and a completed form to be provided by the Board, which will include, without limitation, a narrative statement that describes how the activity broadens

the person's knowledge of occupational therapy or relates to current or anticipated roles and responsibilities of the person in the practice of occupational therapy;

(d) Supervision of fieldwork:

(1) Which includes, without limitation, acting as a primary clinical fieldwork educator for level I fieldwork or level II fieldwork for occupational therapist or occupational therapy assistant students;

(2) Which is afterwards followed by the submission of a completed form to be provided by the Board and a document from the sponsoring educational program indicating the names of the students supervised, the name of the sponsoring educational program and the dates of the fieldwork; and

(3) Which may result in, for the year in which the fieldwork ends:

(I) A maximum of 2 hours of continuing education for level I fieldwork supervision; or

(II) A maximum of 12 hours of continuing education for level II fieldwork supervision;

(e) Writing in a professional capacity:

(1) Which results in the publication of a peer-reviewed book, chapter of a book, or article regarding occupational therapy;

(2) Which is afterwards followed by the submission of a completed form to be provided by the Board; and

(3) Which may result in a maximum of 12 hours of continuing education for the year the writing is published;

(f) Teaching an educational or academic course that is outside the normal scope of the professional employment of the licensee and:

(1) Which includes, without limitation, an in-person academic course, workshop, seminar, in-service course or electronic or Internet-based course; and

(2) Which is afterwards followed by the submission of a copy of the official program, schedule or syllabus of the course and a completed form to be provided by the Board, which includes, without limitation, the title, dates, hours and objectives of the course, a description of the students enrolled in the course and the signature of an appropriate official of the sponsor of the course;

(g) Participation in an official meeting of the Board or a professional organization formed to promote and enhance the practice of occupational therapy:

(1) Which includes, without limitation, an official board or committee meeting of such an organization;

(2) Which is afterwards followed by the submission of a completed form to be provided by the Board and a signed document from the organization that indicates the name of the organization, the purpose of the meeting and a description of the person's role in the organization and at the meeting; and

(3) Which may result in a maximum of 6 hours of continuing education per year; and

(h) Achievement of a type of certification, approved by the Board, from an agency approved by the Board:

(1) Which includes, without limitation, engaging in activities that are required for certification in an occupational therapy specialty by an agency approved by the Board;

(2) Which is afterwards followed by the submission of a completed form to be provided by the Board and a document from the agency showing achievement of the certification; and

(3) Which may result in a maximum of 5 hours of continuing education for the year in which the certification is achieved.

3. As used in this section:

(a) “Level I fieldwork” means fieldwork designed to enrich didactic course work through direct observation and participation in selected aspects of the occupational therapy process.

(b) “Level II fieldwork” means in-depth fieldwork in delivering occupational therapy services across a variety of settings.

Sec. 18. NAC 640A.101 is hereby amended to read as follows:

640A.101 1. The Board may waive all or part of the requirements for continuing education for a person who holds an active a standard license if the person:

(a) Submits a written request for a waiver; and

(b) Provides evidence satisfactory to the Board of an extenuating circumstance which does not allow the completion of the required continuing education.

2. Examples of an extenuating circumstance include, without limitation, extreme:

(a) Illness or injury;

(b) Financial hardship; or

(c) Family hardship.

3. If a waiver is granted, the unfulfilled requirements for continuing education will be added to the person’s requirements for the following year.

4. If a waiver is not granted, the Board may grant extra time for the person to fulfill any required continuing education that has not been completed.

5. A written request for a waiver must be submitted by the applicable date on which the licensee is required to submit to the Board the application for the renewal of his or her license.

Sec. 19. NAC 640A.140 is hereby amended to read as follows:

640A.140 1. The Board will prepare and maintain ~~an annual~~ *a current* list of persons licensed by the Board.

2. A copy of the list of licensees may be obtained from the Board upon written application accompanied by the cost of reproduction as determined by the Board.

3. The Board will provide a copy of its list of licensees to the Commissioner of Insurance without charge.

Sec. 20. NAC 640A.155 is hereby amended to read as follows:

640A.155 1. Acceptable forms of payment to the Board are:

- (a) Personal check;
- (b) Money order;
- (c) Cashier's check; and
- (d) Credit card.

2. The Board will charge a fee for each check or other method of payment returned to the Board or otherwise dishonored upon presentation for payment because the person had insufficient money or credit with the drawee or financial institution to pay the check or ~~because~~ *other method of payment, or* the person stopped payment on the check ~~or~~ *or other method of payment without good cause.* The amount of the original ~~check~~ *payment* and the returned ~~check~~ *payment processing* fee must be paid within 15 days after the notice of the invalid ~~check~~ *payment* by one of the other forms of payment accepted by the Board.

Sec. 21. NAC 640A.160 is hereby amended to read as follows:

640A.160 ~~{The}~~

1. Except as otherwise provided in subsection 2, the Board will charge and collect the following fees:

~~{1-}~~ (a) For an occupational therapist:

~~{(a)}~~ (1) Initial ~~{active}~~ *standard* license.....\$250

~~{(b)}~~ (2) Renewal of ~~{an active}~~ *a standard* license175

~~{(c)}~~ (3) A temporary or provisional license150

~~{(d)}~~ (4) Renewal of a temporary or provisional license.....100

~~{(e)}~~ (5) Convert a temporary or provisional license to ~~{an active}~~ *a standard*
license100

~~{(f)}~~ (6) Reinstatement of an expired license200

~~{(g)}~~ (7) Renewal of an inactive license.....100

~~{(h)}~~ (8) Convert an inactive license to ~~{an active}~~ *a standard* license.....75

~~{2-}~~ (b) For an occupational therapy assistant:

~~{(a)}~~ (1) Initial ~~{active}~~ *standard* license.....\$175

~~{(b)}~~ (2) Renewal of ~~{an active}~~ *a standard* license125

~~{(c)}~~ (3) A temporary or provisional license100

~~{(d)}~~ (4) Renewal of a temporary or provisional license.....75

~~{(e)}~~ (5) Convert a temporary or provisional license to ~~{an active}~~ *a standard*
license75

1(f) (6)	Reinstatement of an expired license	125
1(g) (7)	Renewal of an inactive license	75
1(h) (8)	Convert an inactive license to an active <i>a standard</i> license.....	50
13-1 (c)	General:	
1(a) (1)	Processing of an initial license application	\$150
1(b) (2)	Late fee for renewal of a license	125
1(e) (3)	Verification of a license	25
1(d) (4)	Returned check <i>payment</i> processing	25

2. If an applicant for an initial license as an occupational therapist or occupational therapy assistant is an active member of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran, the Board will charge a fee of \$75 for the processing of an initial license application and one-half of the fee set forth in subsection 1 for an initial license of any type.

Sec. 22. NAC 640A.220 is hereby amended to read as follows:

640A.220 *1.* A licensee:

~~11-1~~ (a) Shall treat a patient with professional skill and competence.

~~12-1~~ (b) Shall not practice, condone, facilitate or collaborate in any type of discrimination

toward a patient based on the patient's:

~~1(a)~~ (1) Race;

~~1(b)~~ (2) Color;

~~1(e)~~ (3) Sex;

~~1(d)~~ (4) Age;

~~1(e)~~ (5) Religion;

~~1(f)~~ (6) National origin;

~~1(g)~~ (7) Mental or physical disability; ~~1(h)~~

~~1(i)~~ (8) Sexual orientation ~~1(j)~~; *or*

(9) Gender identity or expression.

~~13.1~~ (c) Shall not misrepresent to a patient the efficacy of his or her treatment of the patient or the results to be achieved by a course of treatment of occupational therapy.

~~14.1~~ (d) Shall inform his or her patient of any risk to the patient that may be associated with the proposed treatment of occupational therapy.

~~15.1~~ (e) Shall seek the advice and counsel of colleagues and supervisors whenever such a consultation is in the best interest of the patient.

~~16.1~~ (f) Shall not engage in sexual activities with a patient. The Board will presume that there is a violation of this ~~1subsection~~ *paragraph* if the sexual relationship and activity begins during the course of treatment of the patient or within 6 months after the termination of the professional relationship with the patient.

~~17.1~~ (g) Shall not suggest to a patient who is referred to him or her by one provider of health care that the patient seek the treatment of another provider of health care. If there is no referring provider of health care or if the patient does not wish to return to the referring provider of health care, a list containing the names of providers of health care may be offered to the patient by the licensee. If possible, such a list must contain the names of at least two providers of health care.

(h) Shall use professional judgment in determining the frequency of direct contact with a patient and ensure that the frequency of such contact complies with federal and state regulations.

2. As used in this section, “gender identity or expression” means a gender-related identity, appearance, expression or behavior of a person, regardless of the person’s assigned sex at birth.

Sec. 23. NAC 640A.250 is hereby amended to read as follows:

640A.250 1. An occupational therapy assistant or a provisional licensee shall not practice occupational therapy without the general supervision of an occupational therapist. Immediate physical presence or constant presence on the premises where the occupational therapy assistant or provisional licensee is practicing is not required of the ~~supervising~~ occupational therapist. To provide satisfactory general supervision, the *treating* occupational therapist shall:

(a) Provide an initial program of intervention, and any subsequent changes to the initial program, for patients assigned to the occupational therapy assistant or provisional licensee.

(b) Not less than 1 hour for each 40 hours of work performed by the occupational therapy assistant or provisional licensee and, in any event, not less than 1 hour each month, engage in:

(1) Clinical observation of the occupational therapy assistant or provisional licensee; or

(2) Direct communication with the occupational therapy assistant or provisional licensee.

The mode and frequency of that communication is dependent upon the setting for the practice of the occupational therapy assistant or provisional licensee. Direct communication may consist of, without limitation:

(I) Direct or joint treatment of a patient;

(II) Personal supervision of the occupational therapy assistant or provisional licensee while providing services;

(III) Conversation, in person or by telephone;

(IV) Exchange of written comments;

(V) Review of patient records; or

(VI) Conferences, or other face-to-face meetings.

(c) Establish the ~~feaselead~~ *patient workload* of the occupational therapy assistant or provisional licensee based on the competency of the occupational therapy assistant or provisional licensee as determined by the ~~supervising~~ occupational therapist.

(d) Review written documentation prepared by the occupational therapy assistant or provisional licensee during the course of treatment of a patient. The completion of this review by the occupational therapist may be evidenced by:

(1) Preparation of a separate progress note; or

(2) The occupational therapist signing and dating the document prepared by the occupational therapy assistant or provisional licensee.

2. The ~~supervising~~ *treating* occupational therapist and the occupational therapy assistant or provisional licensee shall jointly:

(a) Document, in a manner other than the mere signing of service records prepared by another person, the supervision required pursuant to this section by preparing, without limitation:

(1) Daily or weekly treatment or intervention schedules;

(2) Logs of supervision, which must include, without limitation, the time and date of supervision, the type of supervision provided and the subject matter covered during the supervision; and

(3) Patient records.

(b) Ensure that the record regarding a patient treated by the occupational therapy assistant or provisional licensee is signed, dated and reviewed at least monthly by the occupational therapy assistant or provisional licensee and the ~~supervising~~ occupational therapist. In reviewing the record, the occupational therapist and the occupational therapy assistant or provisional licensee shall verify, without limitation:

(1) The accuracy of the record; and

(2) That there is continuity in the services received by the patient pursuant to the program of intervention.

3. An occupational therapy assistant or provisional licensee may assist ~~a supervising~~ *an* occupational therapist in:

(a) Preparing and disseminating any written or oral reports, including, without limitation, the final evaluation and discharge summary of a patient;

(b) Unless the treatment is terminated by a patient or his or her provider of health care, determining when to terminate treatment; and

(c) Delegating duties to an occupational therapy aide or technician.

4. An occupational therapy assistant or provisional licensee shall document all treatment provided to a patient by the occupational therapy assistant or provisional licensee.

5. ~~{A-supervising}~~ *An* occupational therapist shall not delegate responsibilities to an occupational therapy assistant or provisional licensee which are beyond the scope of the training of the occupational therapy assistant or provisional licensee.

6. The provisions of this section do not prohibit an occupational therapy assistant or provisional licensee from responding to acute changes in a patient's condition that warrant immediate assistance or treatment.

7. As used in this section, "sign" means to inscribe by handwriting or electronic means one's name, initials or license number.

Sec. 24. NAC 640A.260 is hereby amended to read as follows:

640A.260 1. An occupational therapy assistant *or provisional licensee* shall submit verification of his or her employment and supervision by a ~~{licensed occupational therapist}~~ *primary supervisor* to the Board within 30 days after a change in the employment or ~~{supervision.}~~ *primary supervisor*. The verification must be submitted ~~{on}~~ *in* a ~~{form}~~ *format* approved by the Board.

2. An occupational therapist who is ~~{licensed by the Board}~~ *a primary supervisor* shall notify the Board within 30 days after the termination of his or her supervision of an occupational therapy assistant ~~{or}~~ *or provisional licensee*.

3. An occupational therapy assistant or provisional licensee must have at least one primary supervisor and may have one alternate primary supervisor for each employer of record.

4. An occupational therapist may be the primary supervisor of not more than three combined occupational therapy assistants or provisional licensees.

5. A treating occupational therapist may not have more than five combined occupational therapy assistants, provisional licensee students, aides or technicians under his or her supervision at any one time.

6. An occupational therapist may not supervise an occupational therapy assistant, provisional licensee, aide or technician who is the spouse or the parent or child, by blood, marriage or adoption, of the occupational therapist.

Sec. 25. NAC 640A.265 is hereby amended to read as follows:

640A.265 1. ~~+~~~~An~~ *A treating* occupational therapist shall supervise any program of intervention which is delegated to an occupational therapy assistant ~~+~~ *or provisional licensee.*

2. Only an occupational therapist may:

(a) Interpret the record of a patient who is referred to the occupational therapist by a provider of health care;

(b) Interpret the evaluation of a patient and identify any problem of the patient;

(c) Develop a plan of care for a patient based upon the initial evaluation of the patient, which includes the goal of the treatment of the patient;

(d) Determine the appropriate portion of the program of intervention and evaluation to be delegated to an occupational therapy assistant;

(e) Delegate the treatment to be administered by the occupational therapy assistant;

(f) Instruct the occupational therapy assistant regarding:

(1) The specific program of intervention of a patient;

(2) Any precaution to be taken to protect a patient;

(3) Any special problem of a patient;

- (4) Any procedure which should not be administered to a patient; and
- (5) Any other information required to treat a patient;
- (g) Review the program of intervention of a patient in a timely manner;
- (h) Record the goal of treatment of a patient; and
- (i) Revise the plan of care when indicated.

3. *A treating occupational therapist may delegate to an occupational therapist who holds a provisional license any of the activities identified in subsection 2.*

4. Except as otherwise provided in NAC 640A.267, a licensee shall not knowingly delegate to a person who is less qualified than the licensee any program of intervention which requires the skill, common knowledge and judgment of the licensee.

Sec. 26. NAC 640A.267 is hereby amended to read as follows:

640A.267 An occupational therapist who is supervising a ~~†~~

~~—1. Student†~~ *student* participating in the supervised experience required by NRS 640A.120 ~~†~~
~~or~~

~~—2. Provisional licensee,~~

~~↪~~ may delegate duties to the student ~~{or provisional licensee}~~ if the occupational therapist determines, before delegating a duty, that the student ~~{or provisional licensee}~~ possesses the necessary knowledge, competence, training and skills to perform the duty.

Sec. 27. NAC 640A.270 is hereby amended to read as follows:

640A.270 1. A person may assist a licensed occupational therapist *or occupational therapy assistant* as an occupational therapy aide or technician. Such an occupational therapy aide or technician is not required to be licensed pursuant to the provisions of chapter 640A of

NRS or possess the professional or advanced training in basic anatomical, biological, psychological or social sciences which are required for the practice of occupational therapy.

2. Except as otherwise provided in subsection 3, a licensed occupational therapist *or occupational therapy assistant* may delegate duties to an occupational therapy aide or technician if he or she determines, before delegating a duty, that the aide or technician possesses the necessary knowledge, competence, training and skills to perform the duty. The duties which may be delegated to an occupational therapy aide or technician include, but are not limited to, the:

- (a) Routine maintenance of a department;
- (b) Transportation of a patient;
- (c) Preparation of a work area for a therapy session with a patient;
- (d) Preparation of treatment equipment for a therapy session with a patient;
- (e) Attendance to the personal needs of a patient during treatment;
- (f) Assistance in the construction of adaptive equipment and splints;
- (g) Performance of clerical, secretarial and administrative duties; and
- (h) Monitoring a patient for safety purposes while the patient is performing an activity, including, without limitation, the practice of repetitive skills.

3. A licensed occupational therapist *or occupational therapy assistant* may not delegate a duty to an occupational therapy aide or technician if the duty requires the aide or technician to *perform treatments or* make independent evaluations, assessments or recommendations. The duties which may not be delegated to an aide or technician include, but are not limited to, the:

- (a) Interpretation of the record of a patient referred to an occupational therapist;
- (b) Interpretation of prescriptions for a patient;

(c) Development, planning, adjustment or modification of procedures for the treatment of a patient;

(d) Recordation of the treatment or progress of a patient;

(e) Duties described in subsection ~~3~~ 4 of NAC 640A.265; ~~and~~

(f) Performance of any duty which requires the aide or technician to act independently or without the supervision of a licensed occupational therapist *or occupational therapy assistant* during a therapy session with a patient ~~and~~ ; *and*

(g) Performance of any treatments or procedures requiring professional training in occupational therapy.

4. An occupational therapist *or occupational therapy assistant* who delegates a duty to an aide or technician:

(a) Shall directly supervise the aide or technician in accordance with the provisions of NAC 640A.275;

(b) Is professionally responsible for the duty performed by the aide or technician; and

(c) Shall note in the record of a patient any duties performed by the aide or technician.

Sec. 28. NAC 640A.275 is hereby amended to read as follows:

640A.275 1. A licensed occupational therapist or occupational therapy assistant shall directly supervise the work of any person who assists the occupational therapist or occupational therapy assistant as an occupational therapy aide or technician.

2. As used in this section, the term “directly supervise” means to supervise an occupational therapy aide or technician by:

- (a) Being physically present on the premises at all times when the aide or technician is ~~working~~ *assisting* with patients;
- (b) Providing personal instruction to the aide or technician on a regular basis;
- (c) Personally evaluating the work of the aide or technician on a regular basis; and
- (d) Setting forth detailed statements of the duties and responsibilities of the aide or technician.

Sec. 29. NAC 640A.361 is hereby amended to read as follows:

640A.361 If the Board determines that an occupational therapist or occupational therapy assistant is guilty of unprofessional conduct pursuant to NRS 640A.200 and does not suspend or revoke his or her license, the Board will impose, as it deems appropriate, one or more of the following conditions on the use of that license:

1. The acceptance of a public ~~for private~~ reprimand administered by the Board;
2. Probation for a specified period or until further order of the Board;
3. Restrictions or limitations on the scope of the licensee's practice;
4. The successful completion of a program of remedial education or treatment approved by the Board;
5. Supervision of the professional work of the licensee by a person approved by the Board;
6. The repayment to a patient of all money collected by the licensee in connection with the unprofessional conduct;
7. The successful completion of a physical or mental examination or an examination testing the competence of the licensee; or
8. Such other disciplinary action as the Board considers necessary and appropriate.

