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Governor

STATE OF NEVADA  
**BOARD OF OCCUPATIONAL THERAPY**

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Loretta L. Ponton  
Executive Director

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## NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption of  
**LCB No. R048-15**  
Of the  
**Board of Occupational Therapy**

The Board of Occupational Therapy will hold a Public Hearing at 11:00 a.m. on Saturday, February 6, 2016 at Alexis Park, 375 E. Harmon Ave., Las Vegas, Nevada 89169.

The purpose of the hearing is to receive comments from all interested parties regarding the adoption of regulations that pertain to R048-15, Chapter 640A of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

### **LCB File No. R048-15**

#### **1. Need and purpose of the proposed regulations or amendments**

The need for the proposed regulations is to protect the public health, safety and welfare by ensuring that only qualified and competent occupational therapists and occupational therapy assistants are licensed in the state.

The purpose of the proposed regulation is to provide clarity for the public, individuals and licensees through regulations regarding continuing education required to be completed by a person licensed by the Board of Occupational Therapy as an occupational therapist or occupational therapy assistant. The proposed regulation increases the number of hours of continuing education to 12 hours per year; clarifies language regarding acceptable continuing education activities and provides for other matters properly relating thereto.

#### **2. How to obtain the approved or revised text of regulations prepared by LCB**

You may obtain a copy of the proposed regulations by writing to the Board of Occupational Therapy, P.O. Box 34779, Reno, Nevada 89533-4779; or by calling the Board office at 775-746-4101. The proposed regulations are also available for review and download on the Board website [www.nvot.org](http://www.nvot.org).

3. Methods used in determining the impact on a small business

The agency used informed, reasonable judgment in determining that there will not be an impact on small businesses due to the nature of the regulation changes.

4. Estimated economic effect of regulations on business and the public

a. Adverse and beneficial effects

The adoption of these regulations should have no adverse economic effect on business, the public or practitioners of occupational therapy. The benefits of these regulations are that the public and the practitioners (occupational therapists and occupational therapy assistants) will be provided more clarity in NAC 640A.

b. Immediate and long-term effects

The immediate and long-term effects of the regulations proposed in R048-15 will provide clarity and consistency in regulation and licensing of occupational therapists and occupational therapy assistants in Nevada.

5. Cost for enforcement of the regulations

There are no additional costs involved in enforcing the proposed regulations.

6. Overlap or duplication of other state or local governmental agencies

The proposed regulations do not overlap or duplicate any regulation of other state or local governmental entities.

7. Regulation required by federal law

Not applicable

8. More stringent than federal regulations

The Board is not aware of any similar federal regulations of the same activity in which the state regulations are more stringent.

9. New or increases in existing fees

The proposed regulations do not include new or increases in existing fees.

Persons wishing to comment on the proposed action of the Board of Occupational Therapy may appear at the scheduled public hearing or address their comments, data, views or arguments in written form to the Board of Occupational Therapy, P.O. Box 34779, Reno, Nevada 89533. The Board of Occupational Therapy must receive all written submissions on or before **February 6, 2016**. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board of Occupational Therapy may proceed immediately to action upon any written submissions.

A copy of this notice and the regulations to be adopted, R048-15 will be on file at the Nevada State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulations to be adopted, R048-15, will be available from the Board of Occupational Therapy, P.O. Box 34779, Reno, Nevada 89533, and in all counties at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request.

Upon adoption of any regulations, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption or incorporate therein its reason for overruling the consideration urged against its adoption.

This **Notice of Hearing** has been posted on the Board's website [www.nvot.org](http://www.nvot.org); and at the following locations:

Carson City Library  
900 North Roop Street  
Carson City, NV 8701

Lincoln County Library  
63 Main Street  
Pioche, NV 89043

Churchill County Library  
553 South Main Street  
Fallon, NV 89406

Lyon County Library System  
20 Nevin Way  
Yerington, NV 89447

Las Vegas-Clark County Library District  
Headquarters  
833 Las Vegas Blvd. North  
Las Vegas, NV 89101

Mineral County Public Library  
110 1<sup>st</sup> Street  
Hawthorne, NV 89415

Douglas County Public Library  
1625 Library Lane  
Minden, NV 89423

Pershing County Library  
P.O. Box 781  
1125 Central Avenue  
Lovelock, NV 89419

Elko County Library  
720 Court Street  
Elko, NV 89801

Storey County Public Library  
P.O. Box 980  
Virginia City, NV 89440

Esmeralda County Library  
Corner of Crook & 4<sup>th</sup> Street  
PO Box 430  
Goldfield, NV 89013

Tonopah Public Library  
167 South Central Street  
Tonopah, NV 89049

Eureka County Library  
10190 Monroe Street  
Eureka, NV 89316

Washoe County Library System  
301 South Center Street  
Reno, Nevada 89049

Humboldt County Library  
85 East 5<sup>th</sup> Street  
Winnemucca, NV 89445

Battle Mountain Branch Library  
625 South Broad Street  
Battle Mountain, NV 89820

Office of the Attorney General  
Grant Sawyer State Office Building  
555 E. Washington Ave #3900  
Las Vegas, NV 89101

White Pine County Library  
950 Campton Street  
Ely, NV 89301

Office of the Attorney General  
200 North Carson Street  
Carson City, NV 8701

State of Nevada  
Board of Occupational Therapy  
6160 Mae Anne Ave., Suite 3  
Reno, Nevada 89523

Dated: January 5, 2015

PROPOSED REGULATION OF  
THE BOARD OF OCCUPATIONAL THERAPY

LCB File No. R048-15

November 6, 2015

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

AUTHORITY: §§1-7, NRS 640A.110 and 640A.180.

A REGULATION relating to occupational therapy; revising provisions concerning the continuing education required to be completed by a person licensed by the Board of Occupational Therapy as an occupational therapist or occupational therapy assistant; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing regulations require a person licensed by the Board of Occupational Therapy as an occupational therapist or occupational therapy assistant to complete 10 hours of continuing education per year. (NAC 640A.050, 640A.055, 640A.070) Sections 3 and 4 of this regulation increase that requirement to 12 hours of continuing education per year. Existing regulations require such licensees to provide to the Board “proof” of the completion of continuing education. (NAC 640A.030, 640A.050, 640A.055, 640A.070) This regulation retains the requirement of proof of the completion of continuing education for licensees applying to reinstate their licenses; however, for licensees applying to renew their licenses, this regulation requires such licensees to submit to the Board a form provided by the Board and a list of continuing education courses and activities completed, and states that the Board will conduct random audits to ensure completion. Section 4 of this regulation prohibits the receipt of continuing education credit for fieldwork supervision in consecutive periods of license renewal. Existing regulations set forth activities other than courses for which continuing education credit may be earned. (NAC 640A.090) Section 6 of this regulation eliminates participation in a mentorship program and writing in a professional capacity as activities for which continuing education credit may be earned.

Section 1. 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.

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 is sent directly 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 an official governmental entity to the Board for:

(1) Any such license presently held; and

(2) 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 to the Board, on a form to be provided 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 ~~to~~, when requested by the Board.

Sec. 2. NAC 640A.050 is hereby amended to read as follows:

640A.050 1. A license issued by the Board expires on a date to be established by the Board.

2. In addition to ~~the~~ any other applicable requirements of NAC 640A.030, to renew an active license, a person must provide ~~[proof of the completion of any applicable continuing education requirements.]~~ to the Board the materials required by subsection 5 of NAC 640A.070.

Sec. 3. NAC 640A.055 is hereby amended to read as follows:

640A.055 1. An active license that has expired may be reinstated within 5 years of its expiration.

2. In addition to ~~the~~ any other applicable requirements set forth in NAC 640A.030, to reinstate an expired active 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 ~~[10]~~ 12 hours of continuing education within the year immediately preceding the request for reinstatement; and

(c) For the reinstatement of an expired active license as an occupational therapy assistant, submit proof of employment and supervision by a licensed occupational therapist upon reinstatement of the license.

Sec. 4. NAC 640A.070 is hereby amended to read as follows:

640A.070 1. Except as otherwise provided in subsection 4 and NAC 640A.101, a person with an active license shall complete, to the satisfaction of the Board, at least ~~[10]~~ 12 hours of continuing education per year.

2. If the licensee obtains more than ~~[10]~~ 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 ~~[year.]~~ renewal period.

3. A person may receive credit for ~~[the same]~~ fieldwork supervision or the completion of a particular continuing education ~~[activity]~~ course only once during two successive renewal periods.

4. A person who obtains an active 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 the license for the first time.

5. ~~[Proof of the completion of]~~ 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 ~~[least 30 days before the expiration of an active]~~ 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. To ensure compliance with the provisions of this section, the Board will conduct random audits of the continuing education completed by licensees.

Sec. 5. NAC 640A.080 is hereby amended to read as follows:

640A.080 1. The Board will consider the written request of a licensee that it approve credit for any continuing education that is not specified in NAC 640A.090 if the request is submitted to the Board by the applicable date ~~[that proof of the completion of the requirements for continuing education is due.]~~ on which the licensee is required to submit to the Board the application for the renewal of his or her license.

2. If a written request pursuant to subsection 1 is not granted, the Board may grant extra time for the licensee to fulfill any required continuing education that has not been completed.

Sec. 6. 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.

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) ~~Participation in a mentorship agreement:~~

~~—(1) Which requires participation as a mentor or mentee, as proven by a signed, formalized agreement that outlines specific goals and activities that must relate to the development of new occupational therapy skills not required for a current employment position; and~~

~~—(2) Which is afterwards followed by the submission of a copy of the signed agreement and a completed form to be provided by the Board, which will include, without limitation, the dates and hours of activities and a description of the results of the mentorship;~~

~~—(e)~~ 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 ~~[1-hour]~~ 12 hours of continuing education for ~~[each week of]~~ level II fieldwork supervision;

~~[(f)]~~ (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:~~

~~———(I) Information regarding the publication, including, without limitation, the title, author, editor and date of the publication; or~~

~~———(II) If not yet published, a copy of a letter indicating acceptance of the writing for publication by the publisher;]~~ and

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

~~———(I) Ten hours of continuing education for publication of a book;~~

~~———(II) Three hours of continuing education for publication of a chapter of a book; or~~

~~———(III) One hour of continuing education for publication of an article;~~

~~——(g)] ;~~

(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;

~~[(h)]~~ (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 ~~[(2)]~~ 6 hours of continuing education per ~~[(meeting;)]~~ year; and

~~[(h)]~~ (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. 7. 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 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 ~~proof of completion of the required continuing education is due.~~ the licensee is required to submit to the Board the application for the renewal of his or her license.