

# Proposed Revisions to NAC 640A

## Inactive License

**Purpose:** Add provision for “retired” practitioner to maintain an “inactive license” at a significantly reduced fee and eliminate the CE requirements for all “inactive” licenses.

Reduce the conversion fee for an inactive OTA license to not exceed the renewal fee for a standard OTA license.

**Rationale:** Individuals who retire from the practice of occupational therapy may wish to retain their license; however the CE requirement and renewal fee are prohibitive for an individual who is retired. Eliminating CE requirements for persons who are not practicing in Nevada (“inactive”) would not compromise the health and safety of the public.

CE requirements would be required to convert from “inactive” to “active” status; additionally, if a person who is retired wishes to become active, the full renewal fee would be assessed.

Fees – a retired individual would pay a fixed renewal fee of \$50 applicable to both OT and OTA.

**NAC 640A.068 Inactive licensing; continuing education; renewal; conversion of inactive license to standard license.** ([NRS 640A.110](#), [640A.180](#))

1. In addition to the requirements set forth in [NAC 640A.030](#), to convert a standard license to an inactive license:

(a) The license must 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; *and*

*(c) The person must indicate whether he or she is retired from the practice of occupational therapy.*

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

~~—3.2.~~ To renew an inactive license, a person must meet the requirements of [NAC 640A.030](#).

~~—4.3.~~ The holder of an inactive license may request that the license be converted to a standard license.

~~—5.4.~~ In addition to the requirements set forth in [NAC 640A.030](#), to convert an inactive license to a standard license, a person must:

(a) Make a written request to the Board; and

(b) For an occupational therapy assistant, submit proof of employment and supervision by a primary supervisor upon conversion of the license. *and*

*(c) Submit proof of completion of continuing education requirements required for renewal of a standard license.*

*5. A retired person must pay the biennial renewal fee for a standard license to convert the inactive license to a standard license.*

### **NAC 640A.160 Fees**

1. Except as otherwise provided in subsection 2 *and* 3, the Board will charge and collect the following fees:

(b) For an occupational therapy assistant:

- |   |                               |
|---|-------------------------------|
| (7) Biennial renewal of an inactive license           | \$ 125.00                     |
| (8) Convert an inactive license to a standard license | <del>(\$ 75.00)</del> \$50.00 |

*3. If an applicant for a biennial renewal of a license as an occupational therapist or occupational therapy assistant is retired from the practice of occupational therapy, the Board will charge an inactive renewal fee of \$50.00.*

### **Supervision Documentation**

**Purpose:** Eliminate the requirement to maintain supervisory logs; require primary supervisor to review and ensure supervisory documentation is maintained.

**Rationale:** Logs are in addition to already established requirements for documentation; electronic means for monitoring and documentation has become the norm.

Maintenance of supervisory logs has not been consistent as is evidenced by monitoring and audits of supervision. Removing the “supervisory log” requirement addresses duplication in documentation and eases administrative burden on licensees.

No other states require this level of supervisory documentation.

### **NAC 640A.250 Occupational therapy assistant or provisional licensee: Practice under general supervision of occupational therapist. ([NRS 640A.110](#), [640A.230](#))**

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 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 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 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 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 *Documentation may include, 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 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 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. 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.

**NAC 640A.255 Occupational therapy assistant or provisional licensee: Review ~~and approval~~ of ~~supervisory logs~~ *supervisory documentation* by primary supervisor; general supervision by treating occupational therapist. (NRS 640A.110)**

1. A primary supervisor of an occupational therapy assistant or a provisional licensee shall review and ~~approve monthly supervisory logs~~ *ensure supervisory documentation is* 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.

## ***PROPOSED NEW REGULATIONS***

### ***Professional responsibilities regarding business ownership***

**Purpose:** To establish professional and ethical responsibilities of licensees who are business owners or who hold business affiliations; including OTA's in business and administrative roles.

**Rationale:** Several questions have been raised regarding conflict of interest in business ownership, working in an administrative role; and OTA supervision when the business owner is an OTA or directly related to the business owner.

The AOTA Code of Ethics includes provisions relating to business ownership and similar relationships; the proposed regulation provides clarification by delineating the responsibilities of the practitioner in those roles.

### ***Professional responsibilities regarding business ownership, plan of supervision required.***

***1. An occupational therapist or occupational therapy assistant who is the owner, stockholder, partner or other business affiliate shall ensure compliance with relevant laws and regulations, and promote transparency when participating in a business arrangement.***

***A licensee:***

- (a) Shall formulate business policies and procedures in compliance with legal, regulatory, and ethical standards and work to resolve any conflicts or inconsistencies.***
- (b) Shall bill and collect fees legally and justly in a manner that is fair, reasonable, and commensurate with documented services provided.***
- (c) Shall ensure that documentation for reimbursement purposes is done in accordance with applicable laws, guidelines, and regulations.***
- (d) Shall avoid using one's position or knowledge gained from that position in such a manner as to give rise to real or perceived conflicts of interest.***
- (e) Shall avoid dual relationships, conflicts of interest, and situations in which a practitioner is unable to maintain clear professional boundaries or objectivity.***
- (f) Shall use credentials or job titles commensurate with their roles when engaged as business owners, administrators, directors and occupational therapy practitioners.***

***2. A written plan of supervision must be in place for clinical services performed by an occupational therapy assistant when an occupational therapy assistant is:***

- (1) a business owner or business affiliate;***
- (2) an administrator, director or engaged in an administrative role; or***
- (3) related to a business owner as the spouse, parent or child, by blood, marriage or adoption.***

***The plan of supervision shall include provisions for:***

- (1) documentation of general supervision, as described in NAC 640A.250,***
- (2) review of documentation by a primary supervisor; and***
- (3) evaluation of clinical performance.***

***3. An occupational therapy assistant shall not make clinical decisions that would conflict with or overrule those of an occupational therapist in the provision of client services, including but not limited to documentation of services and billing.***

### *Definition – In Good Standing*

**Purpose:** To define criteria for reporting a license “in-good-standing”.

**Rationale:** When a licensee requests a verification of license, the verification includes information on the license issuance and expiration dates, whether there has been disciplinary action against the license, and whether the license is “in good standing”.

Licensees are subject to compliance with Board laws and regulations, including but not limited to compliance with reporting and continuing education. There is no administrative sanctions other than formal disciplinary action for non-compliance with reporting and CE requirements.

In some cases, individuals move out of state; never practice or obtain employment in Nevada or fill temporary positions and leave the state. Current contact information is not available and when attempts to contact the person or the individual is selected for random audits there is no response. It has been found that with the 2-year term of a license, this scenario has become more common, as the license remains “active”, when in the past it would have been expired after one year.

By establishing a definition of “in-good-standing” for requests for verification of a license, the above case scenario’s would be shown as “not-in-good-standing” on a verification; and if the individual seeks to reinstate or apply for a new license in Nevada, the applicant would be required to appear before the Board for approval. The person would be able to remedy the status, without re-application, by contacting the Board and providing the current information or required documentation, and a new verification would be issued.

The second criteria would pertain to a licensee who does have a disciplinary action record but is in compliance with the terms and conditions or has satisfactorily completed the terms and conditions. A revocation or suspension would be reported as “not in good standing”.

*“In good standing” defined. “In good standing” means, when used in reference to a verification of a license, the licensee:*

- (a) Has complied with the licensing requirements of this Board, including but not limited to reporting of current contact information, employment, supervision; and continuing education requirements; and*
- (b) Is adhering to or has successfully completed any terms and conditions of any disciplinary actions, if any, that are not a revocation or suspension of a license.*