

STATE OF NEVADA BOARD OF OCCUPATIONAL THERAPY

NOTICE OF PUBLIC MEETING

January 16, 2021

10:00 a.m.

Pursuant to Governor's Declaration of Emergency – No Public Access Location

Supporting material relating to this public meeting of the Board of Occupational Therapy are available on the Board website www.nvot.org or by contacting the Board office at (775) 746-4101 or email board@nvot.org.

[Board Meeting Zoom Access Link](#)

or

<https://zoom.us/j/2117685876?pwd=TG9IazRkYkU2cFJXNTJkeFFiUzIBUT09>

Telephone Audio Only
(253) 215-8782

Meeting ID: 211 768 5876
Passcode: 069170

MEETING AGENDA

The State of Nevada Board of Occupational Therapy may: (a) address agenda items out of sequence, (b) combine agenda items, and (c) pull or remove items from the agenda at any time. The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person. (NRS 241.020, NRS 241.030). Action by the Board on an item may be to approve, deny, amend, or table.

1. Call to Order, Confirmation of Quorum
2. Public comment

No vote may be taken upon a matter raised during a period devoted to public comment until the matter itself has been specifically included on an agenda as an item upon which action may be taken. (NRS 241.020)

3. Election of Chair for Calendar Year 2021 pursuant to NRS 640A.090 (for possible action)
4. Approval of the Minutes of Board Meeting of November 14, 2020 (for possible action)

[Minutes Nov 14 2020](#)

5. Criminal History Petition– Pre-Determination of Eligibility for Licensure (for possible action)
 - Tashia Kaplan Potential Occupational Therapy Student

Request for pre-determination as to whether prior criminal history will disqualify the person from obtaining licensure in Nevada.

Possible closed session for the Board to consider the character, alleged misconduct, professional competence or physical or mental health of a person (NRS 241.030)

6. Consideration of License Application (for possible action)

- Julie Ellison, Occupational Therapy Assistant: Applicant for Licensure

Possible closed session for the Board to consider the character, alleged misconduct, professional competence or physical or mental health of a person (NRS 241.030)

7. Disciplinary Actions - Recommendation for Dismissal (for possible action)

- Complaint Case No. C21-01 and Complaint Case No. C21-02

8. Review and Consideration of Proposed Regulation (for possible action)

- Summary of Public Workshop [Nov 14 2020 Workshop Summary](#)
- Proposed Regulatory Language [Markup Proposed Regulation](#)
[Proposed Regulation](#)

Members may discuss and approve, add, revise and/or delete language contained in the proposed regulation.

9. Legislative Report – JK Belz & Associates (informational)

10. Executive Director’s Report (for possible action)

- Administrative Collaborative Activities

11. Report from Deputy Attorney General (informational)

12. Report from Board Chair and Members (for possible action)

- Board Meeting Schedule
- Future Agenda Items

13. Public Comment

No vote may be taken upon a matter raised during a period devoted to public comment until the matter itself has been specifically included on an agenda as an item upon which action may be taken. (NRS 241.020)
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14. Adjournment (for possible action)

Public comment is welcomed by the Board. Public comment will be limited to five minutes per person and comments based on viewpoint will not be restricted. Public comment will be available prior to action items on the agenda and on any matter not specifically included on the agenda as the last item on the agenda. At the discretion of the Chairperson, additional public comment may be heard when that item is reached. The Chairperson may allow additional time to be given a speaker as time allows and in his/her sole discretion. (NRS 241.020, NRS 241.030)

Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual the board may refuse to consider public comment. (NRS 233B.126)

Notice: Persons with disabilities who require special accommodations or assistance at the meeting should contact the Board office at (775) 746-4101; or fax (775) 746-4105 no later than 48 hours prior to the meeting. Requests for special accommodations made after this time frame cannot be guaranteed.

Pursuant to Section 1 of the Declaration of Emergency Directive 006 (“Directive 006”), the requirement contained in NRS 241.023(1)(b) that there be a physical location designated for meetings of public bodies where members of the public are permitted to attend and participate has been suspended. Pursuant to Section 3 of Directive 006, the requirement contained in NRS 624.020(4)(a) that public notice agendas be posted at physical locations within the State of Nevada has likewise been suspended.

This meeting has been posted on the Board of Occupational Therapy website www.nvot.org and the State of Nevada Public Notice Website at www.nv.gov

This agenda has been sent to all members of the State of Nevada Board of Occupational Therapy and other interested persons who have requested an agenda from the Board. Persons who wish to continue to receive an agenda and notice must request so in writing on an annual basis.

State of Nevada
Board of Occupational Therapy

6170 Mae Anne Ave., Suite 1, Reno, Nevada 89523
Phone (775) 746-4101 / Fax (775) 746-4105 / Website www.nvot.org

AGENDA ITEM 3: Election of Chair

Pursuant to NRS 640A.090, The Board of Occupational Therapy is to elect a Chair at their first regular meeting of each year. The Vice Chair assumes the duties of the Chair in the absence of the Chair. The Vice Chair will assume the Chair position for the balance of the term/year, if for any reason the Chair is unable to continue in the position, such as long-term illness or resignation from the Board.

The Chair is a voting member of the Board.

Duties of the Chair

The Chair presides over all public meetings of the Board, calling meetings to order, leading and conducting the meeting.

The Chair:

- Decides if a quorum is present before the meeting is opened;
- Leads the Board members into discussion and attempts to have all sides presented;
- Sets the ground rules for time allocation, discussion limits, time of adjournment and keeps focus on the agenda;
- Has the agenda adopted at the start of the meeting and ensures motions are properly voted upon.
- Conducts hearings and may be called upon to make evidentiary rulings pursuant to legal obligations.

Requirements of a Good Chair

- Knowledgeable of basic parliamentary procedures
- Leadership ability
- Ability to get along with people while remaining firm and orderly
- Ability to handle critical and controversial issues
- Maintains control of his/her emotions and convictions
- Impartial, exercising common sense and good judgment
- Ability to control ill will or negative thoughts about others in public.

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AGENDA ITEM 4: Approval of the Minutes

The minutes of the Board meeting of November 14, 2020 are presented for consideration and approval.

Minutes have not yet been approved and are subject to revision at the next meeting.

STATE OF NEVADA BOARD OF OCCUPATIONAL THERAPY

MINUTES BOARD MEETING

November 14, 2020

Members Present: Elizabeth Straughan, Allison Stone, Sol Magpantay, Phil Seitz
Members Absent: Mel Minarik
Staff Present: Loretta L. Ponton, Executive Director, Stacey Whittaker, Licensing Coordinator, Henna Rasul, Sr. Deputy Attorney General
Public Present: Jeanette Belz, Kristen Neville, AOTA, Abigail Swidergal, OTA, Karen Siran-Loughery, OTR, Teri Lawrence, Vicki Mackinder, OTR, Danny Aldis, OTR, Joyce Mosely, OTR

Elizabeth Straughan, Chair, called the meeting to order at 11:05 a.m. A roll call confirmed a quorum was present.

Public Comments – None

Approval of the Minutes - Elizabeth Straughan asked if there were any corrections, revisions, or other discussion of the minutes of the August 15, 2020 board meeting.

No revisions were noted. Ms. Straughan called for a motion.

Phil Seitz made the motion to approve the minutes of the Board meeting of August 15, 2020. Sol Magpantay seconded the motion. The motion passed with Allison Stone abstaining.

Revised Proposed Regulation – Elizabeth Straughan stated it was very difficult to follow the comments and that receiving written comments 1 day ahead did not allow sufficient time to review. Allison Stone stated she would like a summary to analyze all comments. Phil Seitz agreed.

Ms. Ponton stated the Board received a lot of good input and recommended rescheduling to a future meeting after the public comments have been transcribed.

Elizabeth Straughan tabled this item for future meeting consideration.

Biennial Audit Report, FY 19/FY 20 - Elizabeth Straughan called on Loretta Ponton. Ms. Ponton presented the Biennial Audit Report prepared by Haynie and Company, Certified Public Accountants for Fiscal Years ending June 30, 2019 and June 30, 2020. Ms. Ponton stated she is pleased to report the Board received a clean audit with no findings or material discrepancies.

Phil Seitz asked about the correlation of the two-year license and the two-year audit cycle. Ms. Ponton explained the biennial audit is not related to the two-year license cycle. The Board has sufficient financial resources to maintain a 2-year renewal cycle. An audit is required by state law, either annually or biennial. The Board approved a biennial audit cycle due to the cost of audits and previous clean audit reports.

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Phil Seitz asked what the term “government wide” audit referred to. Ms. Ponton responded the audit must be conducted to adhere to specific auditing standards, which is referenced as “government wide”.

Hearing no more questions, Elizabeth Straughan called for a motion.

Allison Stone made the motion, seconded by Sol Magpantay to approve the Biennial Audit of the Board’s financial statement for the period ending June 30, 2019 and June 30, 2020. The motion passed.

Professional and Occupational Licensing Boards Administrative Collaborative Agreement – At the request of Elizabeth Straughan, Ms. Ponton provided a summary of the administrative collaborative agreement.

Ms. Ponton reported that, if approved by the Board, there will be eight (8) participating Boards who will have approved the agreement by year end. The first meeting of the Administrative Collaborative will be scheduled in early December.

Board members were in consensus agreement with the benefits of establishing the administrative collaborative.

Elizabeth Straughan called for a motion.

Allison Stone made a motion, seconded by Sol Magpantay, to approve the Professional and Occupational Licensing Boards Administrative Collaborative Agreement as a participating Board. The motion passed.

Co-Working Agreement – Board of Athletic Trainers – Elizabeth Straughan called upon Loretta Ponton. Ms. Ponton reported the Board of Athletic Trainers approved the Co-Working Agreement, at their October meeting, effective January 1, 2020. The Board of Athletic Trainers administrative office will be physically located with the Board of Occupational Therapy; no staff will be on-site but will have access up to 5 hours per month to an office, conference room and equipment as needed, and will also provide staff coverage, if needed. The cost will be the minimum of \$650 per year, similar to the Board of Environmental Health.

Phil Seitz asked if there will be any conflicts. Ms. Ponton responded there are no conflicts anticipated; it will help in augmenting scheduling for office coverage. Ms. Ponton reported that Brooke Megill, licensing assistant has given notice and will be leaving at the end of the month.

Allison Stone commented it is a great idea and Elizabeth Straughan agreed, especially with the Speech Board giving up their dedicated space in the office.

Elizabeth Straughan called for a motion.

Allison Stone made the motion, seconded by Phil Seitz, to approve the Co-Working Agreement with the Board of Athletic Trainers. The motion passed.

Legislative Report –Liz Straughan called upon Jeanette Belz, Government Affairs.

Elections: Ms. Belz provided an update on the elections stating that all races have been called by the press, results will not be official until November 16th. In the Senate, Republicans have gained a seat with a win in District 5; Democrats hold 9 seats. In the Assembly, Republicans are no longer a super minority;

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and Democrats no longer hold a super majority in either house. New faces include 14 new Assembly members and 3 new Senators; there are more women represented.

Phil Seitz asked how this would affect the Board. Ms. Belz responded they strive to work with all parties at the Legislature, they will have to educate new members and bring them up to speed on Board issues.

2021 BDRs: Ms. Belz explained the bill draft request process referring to the BDR listing provided. BDR requests are placeholders prior to full development of the bill language. The descriptions are vague but identify the intent of the bill which will be fully detailed in the actual bill.

Elizabeth Straughan asked how Ms. Belz sees the legislature happening given the pandemic. Ms. Belz responded committees have met, it has not been decided how the Legislature will go with the positivity rate going up; she does not see how they will meet in person.

Elizabeth Straughan asked if there will be changes in what will be heard. Ms. Belz responded it will be hard to determine as they only meet every two years; a lot will be devoted to the budget.

State Budget: Ms. Belz reported the Governor will present budget recommendations, there will be a large drop in revenue and high unemployment. The Economic Forum, a 5-member committee, will provide the Governor revenue projections to work with. Gaming revenue is not expected to recover until 2023; 1 in 4 Nevadans are on Medicaid currently and State agencies have been asked to cut 12%. The Budget will be challenging.

Sunset Subcommittee: Ms. Belz reported on the Sunset Subcommittee summary of recommendations for the various Boards. By Senate Resolution, the subcommittee was to conduct an Interim Study of Boards. Data was requested of Boards but did not result in a report being compiled. The subcommittee did issue letters to Boards encouraging diversity in Board membership.

Executive Director's Report - Loretta Ponton reported on licensure statistics with comparisons to prior year and fiscal year by quarter for the previous 2 years; status of the COVID-19 provisions regarding temporary licenses and deferred renewal payments; and Board office operations reporting the resignation of the Licensing Assistant at month end.

FY 2020 Financial Statements: Ms. Ponton summarized the 1st Quarter financial statements, reporting Revenue at \$56,829.97 in licensing and other fees (23.9% of budget) with additional income from recaptured legal fees of \$3,587.60 net of the \$1,000 fine which has been remitted to the State, interest income and cost sharing income of \$3,109.81.

Expenses totaled \$72,557.38 (24.13% of budget) for a net loss of (\$ 12,617.60) as of September 30, 2020. Balance sheet cash is \$753,614.02 with \$242,876.70 in deferred revenue.

Ms. Ponton reported that cash flow is steady with revenue coming in each month due to the staggered renewal terms and additional licensing activities.

Revision to Co-Location Agreement: Ms. Ponton reported the Agreement with the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board has been revised to eliminate the dedicated Executive Director office effective January 1, 2021. The equipment owned by that Board has been transferred at FMV to the Board of Occupational Therapy.

The financial impact of the revised cost-sharing is approximately \$3,500 per year in income. Continued efforts will be made to solicit additional Boards for co-working to fully utilize the office resources.

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Continuing Education Audit: Ms. Ponton reported the audit of continuing education will begin late November. Staff is in process of desk auditing records.

Board Training: Ms. Ponton reported the FARB Forum has moved to a virtual conference and encouraged members to consider attendance.

Complaints: Ms. Ponton reported two open complaint cases in process.

Elizabeth Straughan called for a motion to accept the Executive Director's Report.

Allison Stone made the motion to accept the Executive Director's Report. Sol Magpantay seconded the motion. The motion passed.

Executive Director Performance Review – Elizabeth Straughan asked members to review the summary of activities provided by Ms. Ponton and polled the members on completion of the evaluation forms. A verbal tally of evaluation scores indicated all members scored Ms. Ponton as outstanding, 35 of a possible 35 points.

Elizabeth Straughan asked for comments from members regarding pay and benefits. Ms. Ponton stated she is currently at the top of the salary scale and is not requesting an increase in salary or benefits.

Phil Seitz asked Ms. Ponton how long she intends to remain with the Board. Ms. Ponton responded at least a year; the end of 2022 is the target date for retirement.

Elizabeth Straughan directed the members to the revised Employment Agreement for discussion. Ms. Ponton summarized the agreement stating there is no change to the previously approved terms; however, the original agreement has been amended two times and the proposed agreement incorporates and reflects those amendments and clarifies the terms and conditions which will be essential for new Board members.

There was consensus of Board members with the updated Employment Agreement.

Elizabeth Straughan called for a motion.

Allison Stone made the motion to approve the Executive Director Performance Evaluation and Employment Agreement as presented. Phil Seitz seconded the motion.

Report from Sr. Deputy Attorney General – Henna Rasul stated she had no report.

Report from Board Chair and Members – Elizabeth Straughan polled members on the proposed 2021 Board meeting schedule. Discussion was heard on whether to change to weekday or evening meetings from Saturdays with consensus that Saturday meetings were more convenient due to work schedules. Ms. Ponton added that future meetings would be utilizing Zoom which will help identify speakers and the public during open discussions.

Ms. Ponton stated members would be polled for the "regulation review" meeting date which will be in addition to the proposed schedule.

Elizabeth Straughan asked if there were any other future agenda items the members would like added to an agenda. There were none.

Minutes have not yet been approved and are subject to revision at the next meeting.

Public Comment – Elizabeth Straughan asked for public comments.

Abigail Swidergal commented people can call Zoom from their phones. Ms. Swidergal stated the Board needs to look at the AOTA/NBCOT approved Occupational Therapy Compact as a future agenda item.

Adjournment – Elizabeth Straughan adjourned the meeting at 12:31 p.m.

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AGENDA ITEM 7: Disciplinary Matters
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Recommendation to Close Files: C21-01 and C21-02

After review of all documentation received in regards to the above referenced complaint, it has been determined that there is insufficient evidence to file a formal complaint for hearing before the Board and the facts set forth in the accusations are insufficient to establish a violation of Chapter 640A of the Nevada Revised Statutes or the Nevada Administrative Code.

Case No. C21-01 and C21-02 were both filed by the same Complainant alleging unprofessional conduct, and violation of the Code of Ethics and Standards of Practice.

Complainant alleged respondents solicited clients to change agencies to receive services at a new agency with which they were to be employed.

**The Board is requested to formally approve dismissal of:
Case No. C21-01 and Case No. C21-02**

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AGENDA ITEM 8: Proposed Regulation

All written and verbal public comments from both the first and second public workshops have been considered; and after research and review of the AOTA Code of Conduct and Standards of Practice which are adopted in NAC 640A.205; it was determined that the Board has general authority to take action for violation of the Code of Conduct and Standards of Practice. Violations will be handled on an individual basis.

In the Markup of the attached Proposed Revisions, all language in green is new language incorporating suggestions and recommendations received in writing and verbally at the public workshops.

It is proposed to eliminate the language previously presented regarding business ownership and employment in management positions as not being necessary at this time. However, a new section is recommended for consideration incorporating “Conflicts of Interest: Related Parties, Management Roles” which address actual and/or perceived conflicts of interest and documentation of measures taken to remediate a potential conflict of interest.

In addition, NAC 640A.265 has been revised to remove new paragraphs (a) and (b) and paragraph 5 in its entirety which pertained to the “plan of supervision” requirement.

Summary of Revisions:

Treating Occupational Therapist of Record: clarified how a reassignment is documented;
Telehealth: added clarifying language, added client consent and new paragraph 3 to include synchronous and asynchronous methods of delivery;

New - Conflicts of Interest: Related Parties, Management Roles.

NAC 640A.250 paragraph 1 (b) added VII audio-visual technology to methods of supervision.

NAC 640A.265 paragraph 3. Added clarifying language.

Eliminated in its entirety New Section – Business Ownership and Employment in Management Positions.

The Regulation as it would be submitted to LCB if approved, is also provided.

Attachment

Summary of November 14, 2020 Public Workshop
Markup of Revisions to Previous Proposed Regulation
Proposed Regulation – LCB Final

STATE OF NEVADA BOARD OF OCCUPATIONAL THERAPY

SUMMARY OF PUBLIC WORKSHOP

November 14, 2020

Members Present: Elizabeth Straughan, Sol Magpantay, Allison Stone, Phil Seitz
Staff Present: Loretta L. Ponton, Executive Director, Stacey Whittaker, Executive Assistant, Henna Rasul, Sr. DAG, Board Counsel
Public Present: Jeanette Belz; Kristen Neville, AOTA; Abigail Swidergal, OTA; Rachel Martin, OT, NOTA; Joyce Mosely, OT; Karen Siran-Loughery, OT; Teri Lawrence; Vicki Mackinder, OT; Danny Aldis, OT, Yidanya Ghalla, OTA Student

Introduction - Loretta Ponton, Executive Director called the Public Workshop to order at 10:05 a.m.

Ms. Ponton stated the purpose of the workshop was to solicit comments on the revised proposed regulations; interested parties providing testimony will be limited to 5 minutes per person and comments must be directly related to the proposed regulation topics. Ms. Ponton stated the individuals who submitted written comments would be called upon first, followed by verbal comments from individuals. Due to the workshop being held by teleconference, Ms. Ponton asked that comments be restricted to only those who have been called upon; every participant would have the opportunity to provide verbal comments in order of their sign-in attendance.

Ms. Ponton reviewed and summarized the proposed regulation identifying changes made to current regulations and the addition of new proposed sections titled Treating Occupational Therapist and Telehealth. Also identified was language that had also been moved and/or revised and new language in NAC 640A.265 regarding occupational therapy assistants and plan of supervision requirements.

Ms. Ponton provided clarification that the Board does not have authority to address NRS 629.515 which contains language regarding telehealth billing.

Public Comments

Karen Siran-Loughery – Ms. Siran-Loughery summarized her written comments (attached) reiterating her belief that proposed language regarding business management are redundant as the Board has adopted the AOTA Code of Ethics in NAC 640.205 stating the proposed regulation is duplicative. Ms. Siran-Loughery suggested including ethics questions in the Nevada Jurisprudence Exam, and also stated for a small business, its costly to create/revise business policies.

Ms. Siran-Loughery requested clarification of the following:

- NAC 640A.265 3.(c), progress notes to another healthcare professional vs daily chart notes; that there may be cases when an OTA does need to write notes to another professional
- Telehealth clarify in 1. – an OT practitioner can provide services in-state or out-of-state
- Treating OT – clarify what constitutes “reassignment” of a client and how its documented

Abigail Swidergal – Ms. Swidergal stated nothing requires NBCOT certification after initial licensure and requested all references, verbal and written, refer to OTA or Occupational Therapy Assistant.

Ms. Swidergal summarized her written comments (attached) and objections to proposed language as follows:

- Clarify NAC 640A.250 by including “audio-visual communication technology” in both the sections on “conversations” as well as “conferences”
- Paragraph 6 of 640A.250 allows responding to acute changes contradicting NAC 640A.265 3(b) (edited/corrected section reference) which does not allow an OTA to change a plan of care
- Remove from NAC 640A.265 paragraph 2 (b) & (f), 3 (a)(b)(c) and (d) as they violate the AOTA Standards of Practice for OTA’s – changing a program of intervention is OK for an OTA, writing progress notes to another health care practitioner has been done for years, and participating in meetings will impact school based services.
- Objects to paragraph 5 in its entirety, a plan of supervision should be in every clinic
- Recommends adding OTA to telehealth language.

Rachel Martin – Ms Martin referred to the NOTA written comments submitted by Shaina Meyer (attached). Ms. Meyer asked for clarification of NAC 640A.250 on whether supervisory logs were repealed or reviewed monthly. Ms. Ponton clarified they are proposed as optional.

Ms. Martin expressed the following concerns:

- language pertaining to a “written plan of care”
- clarification needed on telehealth whether it is only live or can be recorded
- recommended that client consent be required prior to providing telehealth services

Kristen Neville – Ms. Neville referred to the AOTA written comments (attached). Ms. Neville stated NAC 640A.135 is missing text in the last sentence.

Ms. Neville commented on NAC 640A.265 as follows:

- “plan of supervision” could be a burden on business owners
- business ownership section is already covered in the AOTA Code of Ethics, there is already a mechanism in place, the Board has authority to discipline for a violation of the Code of Ethics

Ms. Neville commented on Telehealth as follows:

- include language from the AOTA Telehealth Position Paper to add synchronous or asynchronous communications;
- in Section 1(d) add language requiring services delivered by telehealth to observe the same standard of care as those delivered in person
- in agreement with AOTA comment on requiring patient consent for telehealth services

Mary Schmitz – Ms. Schmitz was not present. Ms. Ponton summarized written comments received from Ms. Schmitz (attached).

Verbal Comments from the Public in Attendance – Ms. Ponton called upon individuals from the Public who identified as being present and participating in the teleconference as follows:

Joyce Mosely – No response

Teri Lawrence – Ms. Lawrence commented she is in agreement with Karen Siran-Loughery's comments, language is repetitive of the AOTA Code of Ethics; the OTA supervision section is too long and needs to be rewritten; conflicts with AOTA Standards of Practice and is a violation of the 14th Amendment.

Vicki Mackinder - No comments

Danny Aldis – No comments

Yidanya Ghalla – No comments

Ms. Ponton asked if there were any further public comments. Hearing none, closed the Public Workshop at 10:55 a.m.

Loretta Ponton

From: Karen Siran-Loughery <karen.siran@gmail.com>
Sent: Friday, October 9, 2020 3:58 PM
To: Loretta Ponton
Subject: Re: Small Business Impact Survey Request

Hi Loretta - Please see answer below
Thank you,
Karen Siran-Loughery

Please indicate whether there will be an Economic Impact to your business or practice. If Yes, please explain:
Yes.

Both adverse and beneficial effects

Yes there is an adverse effect with the following new proposed regulation.

Business Ownership and Employment in Management Positions

NEW - Professional responsibilities regarding business ownership and employment in management positions

Adverse effects include time and money toward policy research and writing, including time spent to date.

Direct and Indirect effects

Direct

This proposed law is going to have a direct financial effect because it requires policies and procedures to be implemented: "**a) Formulate business policies and procedures in compliance with legal, regulatory, and ethical standards**"

An attorney was given this section and that attorney reported that the cost of retaining an attorney to research and write policies related to this would be a \$2000 retainer and it likely would end up being closer to \$3000.

The attorney pointed out problems with language of the proposed law that would make writing these policies more difficult and costly -- he noted there was "incongruent" wording and that "contract terms" were not clearly defined.

In addition, business owners/managers would have to spend an equivalent amount to time/money as the attorney in researching and consulting on this proposed revision.

Indirect financial effects

1. COVID19 PANDEMIC. Prior to reviewing the proposed regulations, the current pandemic and its economic impact was reviewed with the attorney- he stated he knew almost no one affected economically. This is the case with Occupational Therapy practitioners:

-Nevada Medicaid approved a 6% cut to reimbursement rates for occupational therapy services effective August 15, 2020

-On January 1, 2021 Medicare intends to globally cut therapy reimbursement rates -- it is currently proposed at 9%. Although this is proposed, it is highly likely to happen, just as the Nevada Medicaid cuts were highly likely to happen when they were first proposed -it is standard in the health insurance that when Medicare and Medicaid make cuts, all other insurances follow their lead and cut their rates as well.

2. ENFORCEMENT. The cost of implementing and enforcing this proposed new regulation will fall upon the Board including determining how to define/word and enforce this proposed regulation. The Board is currently experiencing financial effects of the pandemic in the form of deferred licensee payments.

The cuts that businesses are facing make this simply a bad economic time to place an additional financial burden on managers and business owners to have to put time and money into creating policies and procedures for new NAC laws that already exists in NAC 640A.205 -- the simple answer is to add questions about NAC640A.205 to the Nevada Jurisprudence Exam.

Estimated fiscal impact on your business or practice

\$2000-\$5000

How any economic impact, if any, can be reduced

- If "*Professional responsibilities regarding business ownership and employment in management positions* management" is removed entirely and the adoption of the AOTA Code of Ethics in NAC 640A.205 is left as it currently is - the economic impact on small businesses will be **eliminated**.

- if the Board wants licensees to have improved awareness of ethics, they can add any questions on the AOTA code of ethics to the Nevada Jurisprudence exam – with no fiscal impact on small business - all of the following, taken from the AOTA Code of Ethics (adopted in NAC 640A.205) – are either paraphrased or copied in the proposed new regulations: from the AOTA code of ethics: “Occupational therapy **personnel** shall:

N. Ensure compliance with relevant laws and promote transparency when participating in a business arrangement as owner, stockholder, partner, or employee.

L. Collaborate with employers to formulate policies and procedures in compliance with legal, regulatory, and ethical standards and work to resolve any conflicts or inconsistencies.

M. Bill and collect fees legally and justly in a manner that is fair, reasonable, and commensurate with services delivered.

O. Ensure that documentation for reimbursement purposes is done in accordance with applicable laws, guidelines, and regulations. “

D. Avoid using one’s position (employee or volunteer) or knowledge gained from that position in such a manner as to give rise to real or perceived conflict of interest among the person, the employer, other AOTA members, or other organizations.

A. Represent credentials, qualifications, education, experience, training, roles, duties, competence, contributions, and findings accurately in all forms of communication.”

Any other information regarding the impact of the proposed regulation on your business or practice

As a business owner I would like to see “equal protection” under Nevada Law for both employers/managers and employees: all OT personnel need to be clearly aware of ethical responsibilities:

Additional questions that I would like added to the current Nevada Jurisprudence Exam, along with the ones the Board has expressed interest in addressing with business owners/managers, are related to Principle 6, Fidelity, of the AOTA Code of Ethics (which is again adopted by NAC 640A.205): “Occupational therapy personnel shall treat clients, colleagues, and other professionals with respect, fairness, discretion, and integrity.

D. Avoid using one’s position (employee or volunteer) or knowledge gained from that position in such a manner as to give rise to real or perceived conflict of interest among the person, the employer, other AOTA members, or other organizations.

E. Be diligent stewards of human, financial, and material resources of their employers, and refrain from exploiting these resources for personal gain.

K. Abide by policies, procedures, and protocols when serving or acting on behalf of a professional organization or employer to fully and accurately represent the organization’s official and authorized positions.”

On Fri, Sep 18, 2020 at 1:35 PM Loretta Ponton <board@nvot.org> wrote:

Business Licensees:

You are being contacted as an occupational therapy practitioner holding a business license with the State of Nevada. Please complete the following Small Business Impact Survey questions to assist the Board in determining whether the adoption and implementation of the regulation will adversely affect your business or practice. **A response is requested by October 10, 2020.** The draft revised proposed regulation is attached.

The Board of Occupational Therapy held an initial public workshop on August 15, 2020; comments have been considered and are incorporated into the attached revised proposed regulation. Language identified in Blue Bold Italic is original proposed new language; Red strikethrough is original proposed deleted language; Orange strikethrough is revised deleted language; and Purple Bold Italic is new language proposed in the Revised Proposed Regulation.

Please indicate whether there will be an Economic Impact to your business or practice. If Yes, please explain:

- a. Both adverse and beneficial effects
- b. Direct and Indirect effects
- c. Estimated fiscal impact on your business or practice

- d. How any economic impact, if any, can be reduced
- e. Any other information regarding the impact of the proposed regulation on your business or practice

Thank you in advance for your prompt response!

Stay Safe, Stay Healthy!

Loretta L. Ponton, Executive Director

Nevada Board of Occupational Therapy

6170 Mae Anne Ave., Suite 1

Reno, NV 89523

775-746-4101 / board@nvot.org

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Respectfully,

Karen Siran-Loughery

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Loretta Ponton

From: Abigail Swidergal <abiswi@gmail.com>
Sent: Tuesday, November 3, 2020 2:01 PM
To: Loretta Ponton
Subject: Revision Comments
Attachments: Revisions 11.2020.pdf

Hi Loretta,

I'm attaching my comments for the hearing. Please let me know if you have any questions. I will be at the meeting as well, but I would like these on record.

Thank you,
Abi

--
Abigail Swidergal, BS, COTA/L, CKTP™
abiswi@gmail.com
708.372.5084
"Believe you can and you're halfway there"
-T. Roosevelt
Pronouns: she/her/hers

Re: Proposed Revisions to NAC 640A

NAC 640A.250

- 1.2.III refers to: Conversation, in person or by telephone
- 1.2.VI refers to: Conferences, or other face-to-face meetings *conducted through audio-visual communication technology*

It would be clearer if:

conversations were also listed as "in person or *conducted through audio-visual communication technology*" in 1.2.III

Conferences *conducted through audio-visual communication technology* in 1.2.VI

Other face to face meetings were on its own as 1.2.VII

- 1.3.6 does not prohibit responding to changes, but this is in contradiction of NAC 640A.255.2.b

NAC 640A.255

- 2.b prohibits an OTA or provisional licensee from identifying any problem of the patient
- 2.f grants the OT ability to instruct the OTA regarding:
 - 2.f.1 the specific program of intervention of a patient

These violate the AOTA Standards of Practice, Standard III, 5 and 6

- 3.a disallows OTAs from performing assessments
- 3.b disallows OTAs from changing a program of intervention

These violate the AOTA Standards of Practice, Standard III, 5 and 6

- 3.c disallows OTAs from writing progress notes to other health professionals
- 3.d disallows OTAs from participating in meetings

These violate the AOTA Standards of Practice, Standard III, 4, 8, 9

- 5 states only these rules are required when an OTA is involved. Supervision plans, if being required should be in **EVERY** clinic, not exclusive to OTA ownership. This is discriminatory language. OT business owners should be held to the same rules.

NRS 629.515

For specificity, consider adding/rewording for no misinterpretation of the rule:

Hold a license in this State to engage in the practice of occupational therapy as an occupational therapist or occupational therapy assistant



Nevada Occupational Therapy Association

PO Box 94433 • Las Vegas, NV 89193-4433

Email: NevadaOTA@gmail.com

Website: www.nevadaota.org

Shaina Meyer and Rachel Martin
NOTA Legislative Chairs

November 12, 2020

NV Board of Occupational Therapy
6170 Mae Ann Ave
Suite 1
Reno, NV 89523

Dear members of the state of Nevada Board of Occupational Therapy,

We are writing on behalf of NOTA representing OT and COTA practitioners in the state of Nevada. This letter presents questions, concerns, and feedback regarding the proposed regulation changes to be held on November 14, 2020.

Regarding NAC 640A.135:

- Missing information. Page ends at: *(b) Has successfully completed or is adhering to any terms and conditions o.*

Regarding NAC 640A.250:

- 2(a.2): Logs of supervision, which include, without limitation...
 - o References supervision logs but in NAC 640A.255 supervision logs are removed. Consider clarifying if logs are to be repealed altogether or repeal the requirement of a supervisor having to review and approve the logs.

Regarding NAC 640A.265:

- 2(b): Interpret the evaluation of a patient and identify any problem of the patient;
 - o Consider revising red text as OTAs are able to identify problems as shown when they write subjective complaints. Consider page 3, Evaluation 2.b in AOTA Guidelines for Supervision, Roles, and Responsibilities During the Delivery of Occupational Therapy Services: “Defining the problems within the domain of occupational therapy to be addressed” may be more appropriate
- 2(f.1): Instruct the occupational therapy assistant regarding the specific program of intervention of a patient
 - o Consider revising red text to complement page 3, Evaluation 2.f in AOTA Guidelines for Supervision, Roles, and Responsibilities During the Delivery of

Occupational Therapy Services: “Determining specific assessment tasks that can be delegated to the occupational therapy assistant”

- 3: Overall, consider the purpose of this added section as OTA responsibilities are already covered in 640A.250
- 3(b): Establish or change a plan of care or program of intervention;
 - o Consider removing the phrase in red text as it conflicts with AOTA Standards of Practice, section III #6; or consider revising to something such as, “Establish a plan of care. Change a plan of care or program of intervention without collaboration with the occupational therapist” (see page 4, Intervention Implementation 4 of AOTA Guidelines for Supervision, Roles, and Responsibilities During the Delivery of Occupational Therapy Services)
- 3(c): Write progress notes to another health care professional, as distinguished from daily chart notes;
 - o Consider revising red text to something such as, “Write progress notes to health care professionals other than the occupational therapist” (see page 3, Evaluation 4; and page 4, Intervention Review 2; of AOTA Guidelines for Supervision, Roles, and Responsibilities During the Delivery of Occupational Therapy Services)
- 5: A written plan of supervision must be in place for clinical services performed by an occupational therapist assistant when an occupational therapy assistant:
 - o Concern over the ethical nature of the wording. Refer to attached, updated 2020 AOTA Code of Ethics.
 - o Could pose an undue burden on business owners and supervisee’s and could disincentive licenses from becoming business owners
 - o Is this regulation being added due to an isolated incident? If this regulation is not going to impact more than one or two licensees, recommend devising a solution to address that particular business owner.

Regarding NEW Telehealth: Requirements for practice. NRS 629.515

- General thoughts:
 - o Consider clarifying if Telehealth must be live, or if it can include store and forward electronic means such as watching a video? (NRS 629.515 states “...not including standard telephone, facsimile, or electronic mail”)
 - o Consider adding suggestion to identify and document client consent was obtained prior to treatment (or evaluation).
 - o Consider adding verification and documentation that the client is connecting virtually from within the state of Nevada for each visit.
 - o NRS 629.510.3(a.b.) addresses reimbursement. Is reimbursement for Telehealth by OT practitioners supported under these regulations or does it need to be inserted in any revisions to be in line with NRS 629.510?
 - o Is the AOTA Position Paper on Telehealth (see attached) being used as reference for Telehealth practice in Nevada? If so, consider that this position paper does not list all assessments that have been adapted for virtual use. See pediatric assessment links for reference:
 - <https://www.pearsonassessments.com/professional-assessments/digital-solutions/telepractice/telepractice-and-the-sp2.html>

- <https://www.pearsonassessments.com/professional-assessments/digital-solutions/telepractice/telepractice-and-the-beery-vmi.html>
- 1(b): Be knowledgeable and competent in the technology used to provide services by Telehealth.
 - What constitutes "knowledgeable & competent" in technology use, as it can be as simple as a telephone per #2? The COVID-19 pandemic threw a number of practitioners into Telehealth that likely weren't as knowledgeable as some.
- 1(d): Provide services by Telehealth that, as determined by the Board...
 - What constitutes services "as determined by the Board that are substantially equivalent in quality to services provided in person"?
- 1(f): Document any supervision of an occupational therapy assistant conducted through Telehealth
 - Would Telehealth documentation requirements be the same for supervision of an OTA as standard "in person/clinic"? If so, would this include a supervision log?

Thank you for considering our concerns, questions, and recommendations.

Sincerely,

Shaina Meyer
NOTA Legislative Chair
shaywankum@gmail.com
314-276-2317

Rachel Martin
NOTA Legislative Chair
Rachel.martin342@gmail.com
702-499-0521

November 11, 2020

Loretta Ponton
Executive Director
Nevada Board of Occupational Therapy
6170 Mae Anne Avenue, Suite 1
Reno, NV 89523

RE: November 14 Rules Workshop

Dear Ms. Ponton

The American Occupational Therapy Association (AOTA) is the national professional association representing the interests of more than 213,000 occupational therapists, occupational therapy assistants, and students of occupational therapy, including 351 in Nevada. The practice of occupational therapy is science-driven, evidence-based, and enables people of all ages to live life to its fullest by promoting health and minimizing the functional effects of illness, injury, and disability. AOTA supports the Board of Occupational Therapy in its mission to protect the health, safety, and welfare of Nevada consumers and the authority of the Board to create regulations to achieve this mission.

On behalf of AOTA, I am writing to provide comment on the Board's proposed revisions to several of its rules.

NAC 640A.135 – Request for verification of license.

The proposed amendments to this rule appear to be incomplete as the text at the bottom of page 3 of the Notice of Workshop is cut off.

NAC 640A.265 – Written plan of supervision for clinical services performed by an occupational therapy assistant related to a business owner or in a management position

AOTA agrees with the Nevada Occupational Therapy Association that the new provision being added as Section 5 in to NAC 640A.265 requiring a written plan of supervision for certain occupational therapy assistants would be burdensome on the occupational therapy assistant business owner and could discourage occupational therapy assistants from becoming business owners. We recommend replacing the proposed language in section 5, with a provision that states that an occupational therapy assistant who is in a management position or somehow related to a business owner is subject to the same supervision requirements as all other occupational therapy assistants:

5. The supervision requirements of NAC 640A.250 shall apply to the clinical services being provided by an occupational therapy assistant who is:

(a) is related to a business owner or treating occupational therapist who is the spouse, parent or child, by blood, marriage or adoption; or

(b) holds a management position in the occupational therapy business where the patient care is being provided.



For purposes of this section, “management position” shall mean a position that has control or influence over scheduling, hiring and firing.

New rule: Business Ownership and Employment in Management Positions

AOTA applauds the Board for making an effort to address the important issues of conflict of interest, professional responsibilities, and ethical practice, especially when related to an occupational therapist or occupational therapy assistant who is also a business owner or in a management position. However, we submit to the Board that it already has a means of addressing such issues in its rules. NAC 640A.350 (Acts constituting unprofessional conduct) provides that a licensee may be found guilty of unprofessional conduct if the licensee violates the *Occupational Therapy Code of Ethics and Ethics Standards*. AOTA recently finalized an update to its *Code of Ethics* (see enclosure) which addresses many of the issues that, as we understand, gave rise to this new rule. See the following provisions in the updated Standards of Conduct for Occupational Therapy Personnel in the Code:

1D. Ensure transparency when participating in a business arrangement as owner, stockholder, partner, or employee. (Principle: Justice; key words: policy, procedures, rules, law, roles, scope of practice)

1K. Do not exploit any relationship established as an occupational therapy practitioner, educator, or researcher to further one’s own physical, emotional, financial, political, or business interests. (Principle: Nonmaleficence; key words: exploitation, academic, research)

1L. Do not engage in conflicts of interest or conflicts of commitment in employment, volunteer roles, or research. (Principle: Fidelity; key words: conflict of interest)

1M. Do not use one’s position (e.g., employee, consultant, volunteer) or knowledge gained from that position in such a manner as to give rise to real or perceived conflict of interest among the person, the employer, other AOTA members, or other organizations. (Principle: Fidelity; key words: conflict of interest)

2I. Do not engage in dual relationships or situations in which an occupational therapy professional or student is unable to maintain clear professional boundaries or objectivity. (Principle: Nonmaleficence; key words: relationships, clients, service recipients, colleagues, professional boundaries, objectivity, social media)

2J. Proactively address workplace conflict that affects or can potentially affect professional relationships and the provision of services. (Principle: Fidelity; key words: relationships, conflict, clients, service recipients, colleagues)

2M. Do not engage in actions or inactions that jeopardize the safety or wellbeing of others or team effectiveness. (Principle: Fidelity; key words: relationships, clients, service recipients, colleagues, safety, law, unethical, impaired, competence)

5B. Represent credentials, qualifications, education, experience, training, roles, duties, competence, contributions, and findings accurately in all forms of communication. (Principle: Veracity; key words: credentials, competence)



American
Occupational Therapy
Association

5G. Provide appropriate supervision in accordance with AOTA Official Documents and relevant laws, regulations, policies, procedures, standards, and guidelines. (Principle: Justice; key words: supervisor, fieldwork, supervision, student)

We suggest the Board incorporate by reference the 2020 Code of Ethics and use its current authority to address complaints related to conflicts of interest where a licensee is the business owner or in a management position in an occupational therapy business.

This change, combined with the aforementioned change in NAC 640A.265, we feel is not burdensome on occupational therapy business owners, clarifies the nature of the supervision that must be provided to all occupational therapy assistants, including those who own businesses and serve in management roles, while also provides the Board with a mechanism to enforce its existing rules.

New rule: Telehealth

AOTA also applauds the Board for its newly proposed telehealth rule. However, we suggest two changes to the proposed rule for the Board's consideration. First, in item 1(d), we suggest requiring that services delivered by telehealth observe the same standard of care as those delivered in person. Second, we suggest clarifying whether or not the definition of "telehealth" includes synchronous or asynchronous communication. According to AOTA's position paper *Telehealth in Occupational Therapy* (see enclosure), "Occupational therapy services provided by means of telehealth can be synchronous, that is, delivered through interactive technologies in real time, or asynchronous, using store-and-forward technologies." As the use of telehealth technology in health care proliferates, it is likely the Board will increasingly receive questions about which type of telehealth technology is permissible.

Thank you for the opportunity to comment on the proposed changes and we look forward to discussing the proposed changes at the upcoming rules workshop. Please contact me at kneville@aota.org or 240-800-5981 if you have questions or need additional information about AOTA's position.

Sincerely,

A handwritten signature in black ink that reads "Kristen Neville". The signature is written in a cursive, flowing style.

Kristen Neville
Manager, State Affairs

Cc: Lacey Bukoskey, MS, OTR/L, President, Nevada Occupational Therapy Association

Enclosures

2028 E. Crystal Dr.
Fort Mohave, AZ 86426
November 12, 2020

Nevada Occupational Therapy Licensure Board,

I am unable to participate during the live workshop on 11/14/20 to discuss the proposed changes, but I would like to take this opportunity to express my concerns and questions regarding Occupational Therapy and Telehealth.

I understand that telehealth is already allowed through law pursuant to NRS 629.515 and that the intent of the proposed regulation is to clarify the requirements specific to OT practice.

I have included the verbiage provided by the Board as reference for my questions that follow.

NEW Telehealth: Requirements for practice. (NRS 629.515)

1. A person who engages in the practice of occupational therapy by telehealth within this State or provides services by telehealth to any person in this State must: (a) Hold a license to engage in the practice of occupational therapy in this State; (b) Be knowledgeable and competent in the technology used to provide services by telehealth; (c) Only use telehealth to provide services for which delivery by telehealth is appropriate, (d) Provide services by telehealth that, as determined by the Board, are substantially equivalent in quality to services provided in person; (e) Document any services provided by telehealth in the record of the person receiving the services; (f) Document any supervision of an occupational therapy assistant conducted through telehealth, and (g) Comply with the provisions of the Health Insurance Portability and Accountability Act in the delivery of occupational therapy services by telehealth.

2. As used in this section, “telehealth” means engaging in the practice of occupational therapy using equipment that transfers information electronically, telephonically or by audio-visual communication technology.

Here is the NRS 629.515

NRS 629.515 Valid license or certificate required; exception; restrictions; jurisdiction over and applicability of laws.

1. Except as otherwise provided in this subsection, before a provider of health care who is located at a distant site may use telehealth to direct or manage the care or render a diagnosis of a patient who is located at an originating site in this State or write a treatment order or prescription

for such a patient, the provider must hold a valid license or certificate to practice his or her profession in this State, including, without limitation, a special purpose license issued pursuant to NRS 630.261. The requirements of this subsection do not apply to a provider of health care who is providing services within the scope of his or her employment by or pursuant to a contract entered into with an urban Indian organization, as defined in 25 U.S.C. § 1603.

2. The provisions of this section must not be interpreted or construed to:

(a) Modify, expand or alter the scope of practice of a provider of health care; or

(b) Authorize a provider of health care to provide services in a setting that is not authorized by law or in a manner that violates the standard of care required of the provider of health care.

3. A provider of health care who is located at a distant site and uses telehealth to direct or manage the care or render a diagnosis of a patient who is located at an originating site in this State or write a treatment order or prescription for such a patient:

(a) Is subject to the laws and jurisdiction of the State of Nevada, including, without limitation, any regulations adopted by an occupational licensing board in this State, regardless of the location from which the provider of health care provides services through telehealth.

(b) Shall comply with all federal and state laws that would apply if the provider were located at a distant site in this State.

4. As used in this section:

(a) "Distant site" means the location of the site where a telehealth provider of health care is providing telehealth services to a patient located at an originating site.

(b) "Originating site" means the location of the site where a patient is receiving telehealth services from a provider of health care located at a distant site.

(c) "Telehealth" means the delivery of services from a provider of health care to a patient at a different location through the use of information and audio-visual communication technology, not including standard telephone, facsimile or electronic mail.

(Added to NRS by 2015, 621)

Based on the above, I have questions as follows:

1. What constitutes "knowledgeable & competent" in the technology as it can be as simple as a telephone per #2? Who determines the degree of knowledge since COVID-19 pandemic crisis threw a number of practitioners into Telehealth that likely weren't as knowledgeable as others? I would hope that the same standard of care expected for direct in-person care will be upheld in the virtual environment. It is critical that the knowledge of the occupational therapy practitioner (OTP) can distinguish when an individual isn't appropriate for Telehealth services or a family member/caregiver can't adequately support the individual for effective service provision virtually.

2. What constitutes services "as determined by the Board" that are equivalent in quality? Were they only trying to infer that OTPs (& students during Fieldwork under the supervision of an OTP) are only providing ADL's, IADL's, Cognitive, SI, Neuro treatments or is it also addressing evaluations that could be treated or evaluated under our licensure in person? Or is it simply trying to infer that the Board can determine when a complaint is filed, whether a licensee's application of telehealth services was appropriately employed to be equivalent in quality to "in-person" care?

3. How would documentation necessary to support supervision of an OTA look as opposed to standard "in person/clinic"? Would this require a Supervision Log as referenced for the other proposed non-Telehealth specific provisions?

4. What about documentation to support supervision for OTS's/OTAS's?

5. Will the "telehealth" mean only live or would it include store & forward electronically which may include watching a video? NRS629.515 specifically stated "... not including standard telephone, facsimile or electronic mail."

6. A statement may be suggested that consent for treatment (or evaluation) be obtained per visit and is documented (either with a signed form obtained as part of the initial POC paperwork or is verbally obtained & documented each visit).

7. Verification for each visit that the client is at that moment still within the state of NV and isn't connecting virtually from outside the state.

8. If the AOTA Position Paper on Telehealth is being used as reference for Telehealth practice in NV, it appears to be too limiting in its descriptions of standardized tests that have validity as they exclude pediatric based assessments that have been adapted for the virtual environment such as, but not limited to the Sensory Profile & the Beery VMI (<https://www.pearsonassessments.com/professional-assessments/digital-solutions/telepractice/telepractice-and-the-sp2.html>; <https://www.pearsonassessments.com/professional-assessments/digital-solutions/telepractice/telepractice-and-the-beery-vmi.html>).

9. One stipulation in NRS 629.510 addresses reimbursement which isn't addressed at all with this proposed change specific to OT so is reimbursement for Telehealth by OTPs supported under that or does it need to be inserted in any revisions to be in line with NRS 629.510? Does it already apply to OTPs as health professionals or is this a matter (reimbursement parity & overall coverage for Telehealth) that the Board generally doesn't address?

NRS 629.510 Legislative findings and declarations. The Legislature hereby finds and declares that:

1. Health care services provided through telehealth are often as effective as health care services provided in person;
2. The provision of services through telehealth does not detract from, and often improves, the quality of health care provided to patients and the relationship between patients and providers of health care; and
3. It is the public policy of this State to:
 - (a) Encourage and facilitate the provision of services through telehealth to improve public health and the quality of health care provided to patients and to lower the cost of health care in this State; and
 - (b) Ensure that services provided through telehealth are covered by policies of insurance to the same extent as though provided in person or by other means.

(Added to NRS by 2015, 621)

I believe in the value and effectiveness for Occupational Therapy delivery to multiple populations and ages through the virtual environment. I look forward to supporting further coverage for Telehealth both with local commercial carriers as well as at the Federal level knowing that our state licensure needs to promote & validate that our scope of practice within Nevada also support this.

Regards,

Dr. Mary Schmitz, OTD, OT/L

Licensee # 17-0888
Secretary, Community Emergency Response Team (CERT), Bullhead City, AZ
ArizOTA Telehealth Special Interest Section, Chair
Co-Captain NV & AZ, COPD Foundation
AOTA Credentialed Leader in Academia
USC/WPS Sensory Integration Certification
USC Executive Certificate in Home Modification

Proposed Revisions to NAC 640A

Original proposed language

Original deleted language

Revision 1 to original proposed language

Revision 2 to revised proposed language

Treating Occupational Therapist of Record

- 1. A treating occupational therapist shall at all times be responsible for all occupational therapy services provided by an occupational therapy assistant and ensure the occupational therapy assistant does not function autonomously.*
- 2. The treating occupational therapist has continuing responsibility to follow the progress of each patient, and is responsible for determining which elements of a program of intervention may be delegated to an occupational therapy assistant.*
- 3. The occupational therapist who performs the initial evaluation of a patient shall be the treating occupational therapist of record for that patient until the reassignment of that patient to another occupational therapist has occurred.*
- 4. Reassignment of the patient to another occupational therapists shall constitute a change in treating occupational therapist of record and must be documented **as a reassignment by noting** in the patient record.*
- 5. Temporary or intermittent services provided by another occupational therapist which are consistent with the program of intervention does not constitute a change of responsibility as the treating occupational therapist or constitute a reassignment of the patient.*

Telehealth: Requirements for practice. (NRS 629.515)

- 1. An **occupational therapist or occupational therapy assistant** who engages in the practice of occupational therapy by telehealth within this State or provides services by telehealth to any person **physically located** in this State must:*
 - (a) Hold a license to engage in the practice of occupational therapy in this State;*
 - (b) Be knowledgeable and competent in the technology used to provide services by telehealth;*
 - (c) Only use telehealth to provide services for which delivery by telehealth is appropriate,*
 - (d) **Ensure services provided by telehealth observe the same standard of care as those delivered in person;***
 - (e) Document any services provided by telehealth in the record of the person receiving the services;*
 - (f) **Comply with supervision documentation requirements** as described in **NAC 640A.250;***
 - (g) Comply with the provisions of the Health Insurance Portability and Accountability Act in the delivery of occupational therapy services by telehealth; **and***
 - (h) **Document client consent for telehealth services prior to delivery of occupational therapy services.***

2. *As used in this section, “telehealth” means engaging in the practice of occupational therapy using equipment that transfers information electronically, telephonically or by audio-visual communication technology.*

3. *Occupational therapy services provided by telehealth may be synchronous, delivered through interactive technologies in real time, or asynchronous, using store and forward technologies.*

NEW Conflicts of Interest: Related Parties, Management Roles

1. *An occupational therapy practitioner shall avoid actual or perceived conflicts of interest when:*

(a) the practitioner holds a management position and provides clinical services at the same business, or

(b) is related to a business owner, manager or immediate supervisor who holds a license with this Board.

2. *Documentation of measures taken to remediate a potential or perceived conflict of interest shall be maintained in the practitioner’s records, including methods utilized to meet the requirements for supervision detailed in NAC 640A.250.*

For purposes of this section:

(a) “management position” shall mean a position that has control or influence over scheduling, hiring and firing;

(b) “related to” shall mean a practitioner who is the spouse, parent or child, by blood, marriage or adoption.

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.135 Request for verification of license. (NRS 640A.110)

1. A person may request that a *written* verification of his or her license be provided to another organization or state by submitting to the Board:

- 1. A written request; and
- 2. Payment of the appropriate fee.

Verification of a license is available on line, without charge.

2. Verification of a license shall include the licensee’s name, professional title, license number, issue and expiration dates, current license status, if the license is in good standing and whether the license has disciplinary action.

3. As used in this section, “in good standing” means, the licensee:

(a) Has substantially complied with the laws and regulations governing the practice of occupational therapy in this state, including but not limited to NAC 640A.070, NAC 640A.120, NAC 640A.260 and LCB File No. 105-19 Section 1.; and

(b) Has successfully completed or is adhering to any terms and conditions of any disciplinary actions, if any, that are not a revocation or suspension of a license.

NAC 640A.160 Fees

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

(a). For an **occupational therapist**:

(1) Initial standard license.....	..... \$250
(2) Biennial renewal of a standard license.....	..... 250
(3) A temporary or provisional license.....	..... 150
(4) Renewal of a temporary or provisional license.....	..... 100
(5) Convert a temporary or provisional license to a standard license	..... 100
(6) Reinstatement of an expired license.....	..... 250
(7) Biennial renewal of an inactive license.....	..... 150

(8) Convert an inactive license to a standard license.....	.....100
(b) For an occupational therapy assistant :	
(1) Initial standard license.....	..... \$175
(2) Biennial renewal of standard license.....	..... 175
(3) A temporary or provisional license.....	..... 100
(4) Renewal of a temporary or provisional license.....	..... 75
(5) Convert a temporary or provisional license to a standard license	..... 75
(6) Reinstatement of an expired license.....	..... 175
(7) Biennial renewal of an inactive license.....	..... 75
(8) Convert an inactive license to a standard license.....	.....(75) 50
(c) General:	
(1) Processing of an initial license.....	..... 150
(2) Late fee for renewal of a license.....	..... 125
(3) Verification of a license.....	..... 25
(4) Returned payment 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.

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.

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; *or*

(VII) Communications conducted through audio-visual technology.

(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.

NAC 640A.265 Occupational therapy assistant or provisional licensee: Delegation of duties by treating occupational therapist; limitations. (NRS 640A.110, 640A.230)

1. A treating occupational therapist shall *provide direction and* 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. An occupational therapy assistant may not:

(a) Write formal evaluations of progress to another health care professional, as distinguished from daily chart notes in the client records;

(b) Be the sole occupational therapy representative in any meeting with clients, patients or other health care professionals where the patient's occupational therapy program of intervention may [be assessed or] be modified, including in an educational setting; or

(c) Make clinical decisions that would conflict with or overrule those of an occupational therapist in the provision of client services

4. An occupational therapy assistant or provisional licensee shall notify the treating occupational therapist and document in the patient record any changes in the patient's condition not within the planned progress or treatment goals and any change in the patient's general condition.

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

46. 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.

Proposed Sections to be Deleted Based Upon Public Comments

NAC 640A.265 Paragraph 3 revised; paragraph 5 deleted in its entirety in this section; refer to new Conflict of Interest section regarding management positions and related parties.

3. An occupational therapy assistant shall not:

- ~~(a) Perform any clinical data collection, assessment or treatment prior to the evaluation of the patient by the occupational therapist;~~
- ~~(b) Establish or change a plan of care or program of intervention;~~

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

- ~~(a) is related to a business owner or treating occupational therapist who is the spouse, parent or child, by blood, marriage or adoption; or~~
- ~~(b) holds a management position in the occupational therapy business where the patient care is being provided.~~

~~For purposes of this section, "management position" shall mean a position that has control or influence over scheduling, hiring and firing.~~

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

- ~~(a) documentation of general supervision, as described in NAC 640A.250;~~
- ~~(b) review of documentation by a primary supervisor; and~~
- ~~(c) evaluation of clinical performance.~~

Business Ownership and Employment in Management Positions

~~NEW— Professional responsibilities regarding business ownership and employment in management positions, plan of supervision required.~~

~~1.— An occupational therapist or occupational therapy assistant who is the owner, stockholder, partner or other business affiliate holds a management position in the business in which the practitioner is employed shall ensure compliance with relevant laws and regulations, and promote transparency in business and professional roles when participating in a business arrangement.~~

~~A licensee shall, in all appropriate instances:~~

- ~~(a) Formulate business policies and procedures in compliance with legal, regulatory, and ethical standards and work to resolve any conflicts or inconsistencies.~~
- ~~(b) Bill and collect fees legally and justly in a manner that is fair, reasonable, and commensurate with documented services provided.~~
- ~~(c) Ensure that documentation for reimbursement purposes is done in accordance with applicable laws, guidelines, and regulations.~~
- ~~(d) 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) Avoid dual relationships, conflicts of interest, and situations in which a practitioner is unable to maintain clear professional boundaries or objectivity.~~
- ~~(e) Use professional credentials or management 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.~~

Board of Occupational Therapy Proposed Regulation

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

Section 1. *Treating Occupational Therapist of Record*

1. A treating occupational therapist shall at all times be responsible for all occupational therapy services provided by an occupational therapy assistant and ensure the occupational therapy assistant does not function autonomously.

2. The treating occupational therapist has continuing responsibility to follow the progress of each patient, and is responsible for determining which elements of a program of intervention may be delegated to an occupational therapy assistant.

3. The occupational therapist who performs the initial evaluation of a patient shall be the treating occupational therapist of record for that patient until the reassignment of that patient to another occupational therapist has occurred.

4. Reassignment of the patient to another occupational therapists shall constitute a change in treating occupational therapist of record and must be documented as a reassignment by noting in the patient record.

5. Temporary or intermittent services provided by another occupational therapist which are consistent with the program of intervention does not constitute a change of responsibility as the treating occupational therapist or constitute a reassignment of the patient.

Sec 2. *Telehealth: Requirements for practice.*

1. An occupational therapist or occupational therapy assistant who engages in the practice of occupational therapy by telehealth within this State or provides services by telehealth to any person physically located in this State must:

(a) Hold a license to engage in the practice of occupational therapy in this State;

(b) Be knowledgeable and competent in the technology used to provide services by telehealth;

- (c) Only use telehealth to provide services for which delivery by telehealth is appropriate,*
- (d) Ensure services provided by telehealth observe the same standard of care as those delivered in person;*
- (e) Document any services provided by telehealth in the record of the person receiving the services;*
- (f) Comply with supervision documentation requirements as described in NAC 640A.250;*
- (g) Comply with the provisions of the Health Insurance Portability and Accountability Act in the delivery of occupational therapy services by telehealth; and*
- (h) Document client consent for telehealth services prior to delivery of occupational therapy services.*

2. Occupational therapy services provided by telehealth may be synchronous, delivered through interactive technologies in real time, or asynchronous, using store and forward technologies.

3. As used in this section, “telehealth” means engaging in the practice of occupational therapy using equipment that transfers information electronically, telephonically or by audio-visual communication technology.

Sec 3. Conflicts of Interest: Related Parties, Management Roles

1. An occupational therapy practitioner shall avoid actual or perceived conflicts of interest when:

(a) the practitioner holds a management position and provides clinical services at the same business, or

(b) is related to a business owner, manager or immediate supervisor who holds a license with this Board.

2. Documentation of measures taken to remediate a potential or perceived conflict of interest shall be maintained in the practitioner’s records, including methods utilized to meet the requirements for supervision detailed in NAC 640A.250.

3. For purposes of this section, “management position” shall mean a position that has control or influence over scheduling, hiring and firing; “related to” shall mean a practitioner who is the spouse, parent or child, by blood, marriage or adoption.

Sec 4. 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 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.

Sec 5. NAC 640A.135 is hereby amended to read as follows:

NAC 640A.135 *1.* A person may request that a *written* verification of his or her license be provided to another organization or state by submitting to the Board:

- ~~1.~~ (a) A written request; and
- ~~2.~~ (b) Payment of the appropriate fee.

2. Verification of a license shall include the licensee’s name, professional title, license number, issue and expiration dates, current license status, if the license is in good standing and whether the license has disciplinary action.

3. As used in this section, “in good standing” means, the licensee:

(a) Has substantially complied with the laws and regulations governing the practice of occupational therapy in this state, including but not limited to NAC 640A.070, NAC 640A.120, NAC 640A.260 and LCB File No. 105-19 Section 1.; and

(b) Has successfully completed or is adhering to any terms and conditions of any disciplinary actions, if any, that are not a revocation or suspension of a license.

Sec 6. NAC 640A.160 is hereby amended to read as follows:

640A.160 1. Except as otherwise provided in subsection 2 *and 3*, the Board will charge and collect the following fees:

- (a). For an occupational therapist:
 - (1) Initial standard license..... \$250
 - (2) Biennial renewal of a standard license..... 250
 - (3) A temporary or provisional license..... 150
 - (4) Renewal of a temporary or provisional license..... 100
 - (5) Convert a temporary or provisional license to a standard license 100

(6) Reinstatement of an expired license.....	250
(7) Biennial renewal of an inactive license.....	150
(8) Convert an inactive license to a standard license.....	100
(b) For an occupational therapy assistant:	
(1) Initial standard license.....	\$175
(2) Biennial renewal of standard license.....	175
(3) A temporary or provisional license.....	100
(4) Renewal of a temporary or provisional license.....	75
(5) Convert a temporary or provisional license to a standard license	75
(6) Reinstatement of an expired license.....	175
(7) Biennial renewal of an inactive license.....	75
(8) Convert an inactive license to a standard license.....	75 50
(c) General:	
(1) Processing of an initial license.....	150
(2) Late fee for renewal of a license.....	125
(3) Verification of a license.....	25
(4) Returned payment 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.

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.

Sec 7. 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 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; *or*

(VII) Communications conducted through audio-visual technology.

(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.

Sec 8. NAC 640A.255 is hereby amended to read as follows:

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

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.

Sec 9. NAC 640A.265 is hereby amended to read as follows:

NAC 640A.265 1. A treating occupational therapist shall *provide direction and* 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. An occupational therapy assistant may not:

(a) Write formal evaluations of progress to another health care professional, as distinguished from daily chart notes in the client records;

(b) Be the sole occupational therapy representative in any meeting with clients, patients or other health care professionals where the patient's occupational therapy program of intervention may be modified, including in an educational setting; or

(c) Make clinical decisions that would conflict with or overrule those of an occupational therapist in the provision of client services

4. An occupational therapy assistant or provisional licensee shall notify the treating occupational therapist and document in the patient record any changes in the patient's condition not within the planned progress or treatment goals and any change in the patient's general condition.

~~[3.]~~ **5.** A treating occupational therapist may delegate to an occupational therapist who holds a provisional license any of the activities identified in subsection 2.

~~[4.]~~ **6.** 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.

State of Nevada
Board of Occupational Therapy

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AGENDA ITEM 9: Legislative Report
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Jeanette Belz, JK Belz and Associates, will provided a report on current Legislative bills and other pertinent items.

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Board of Occupational Therapy

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AGENDA ITEM 10: Executive Director's Report
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Attachments

Written Report
Reporting Requirements Guidelines

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Board of Occupational Therapy

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EXECUTIVE DIRECTOR'S REPORT
January 16, 2021

Licensure Statistics - The following chart provides current and prior year licensing details and activity as of December 31, 2020. The number of practitioners increased by 1% over the previous year.

Comparison to Prior Year

Description	2020	2019	% +	OTR's	2019	COTA's	2019
Total Current Licensees	1558	1544	1%	1186	1175	372	369
Standard Licensees	1547	1506	2.7%	1177	1152	370	354
Provisional Licensees	4	5		4	2	0	3
Temporary Licensees	7	2		5	0	2	2
Inactive Licensees	37	31		28	21	8	10

A two-year analysis of licensing statistics finds an increase of 200 licensees or 14.7% from December 31, 2018 to December 31, 2020; a reduction from 17% as of September 30, 2020.

Fiscal Year 19/ Fiscal Year 20 / Fiscal Year 21 by Quarter

Fiscal Years 2019 / 2020	Total Licensees	OT	OTA
July 1, 2018	1321	1011	310
December 31, 2018	1358	1033	325
July 1, 2019	1421	1080	336
December 31, 2019	1544	1175	369
July 1, 2020	1635	1245	390
September 30, 2020	1562	1187	375
December 31, 2020	1558	1186	372

Year to date through December 31st, 106 new licenses were issued and 181 licenses expired.

COVID-19 Emergency provisions: The option for deferred payment of renewal fees expired September 30, 2020. There are still 40 remaining licensees with deferred payment of their renewal fees.

Financial Statements / Investments – The Board 37 financial statements for the 2nd Quarter are not yet available and will be provided at the next Board meeting. Operating Cash in the checking account at December 31, 2020 was \$217,237.

One CD has matured in the amount of \$100,000 which has been transferred to the Cash investment account. The options for reinvesting in CD's is very very limited with no long term interest rates greater than 0.10% which is the same as the cash account. Funds will be retained in the cash account until options for reinvestment are analyzed and conditions improve.

Currently we have 3 CD's totaling \$250,000; money market funds of \$160,767 and cash of \$102,274 on deposit at Wells Fargo Advisors.

Administrative Collaborative – The first ZOOM meeting of the Administrative Collaborative was held December 10th with 11 Boards represented. The topic was review of Reporting Requirements Guidelines with additional discussion of legislation which would require the collection of health workforce data by specific Boards as part of license renewal. The next meeting will be held in January. A copy of the Reporting Requirements Guidelines is provided under separate cover for your information.

Office Operations: Pursuant to Governor’s Directive 06, the Board office remains closed to the public. Brooke Megill, licensing assistant has resigned; the position will not be filled immediately. The office may not be staffed every day depending on availability of staff. All functions are being handled either on-site or remotely. The office will remain closed until the Governor’s directive is lifted. Staffing will be evaluated at that time.

CE Audit – The random audit of Continuing is nearly complete. Staff is in process of the final review of CE information submitted in response to the audit request. As of January 4th, nine (9) licensees have not responded to the Notice of CE Audit, follow-up letters are being sent.

In the audit of CE documentation, it has been noted that in some instances on-line courses were used exclusively with multiple certificates indicating start/completion dates on the same date. Also the total credit hours per day exceeded 8 hours and in some cases all 24 credit hours were documented as having been obtained on the same day. The CE providers were AOTA approved.

The Board may wish to consider clarifying or establishing a limit on on-line course hours to ensure the continuing education meets the Board’s definition of continuing education hours as defined in NAC 640A.013:

“hour of continuing education” means 60 minutes of continuing education, not including time for meals or breaks.”

Complaints Status - There are no open complaint cases under investigation.

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AGENDA ITEM 12: Report from Board Chair
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Legislative Session – February 1 thru June 30, 2021

Regularly Scheduled Meetings

Calendar Year 2021	Topics/Comments
January 16	Draft Regulation Review and Approval
<i>March 20</i>	<i>Legislative Session</i>
May 29	Legislative Session
August 21	Legislative Impact FY 22 Budget Review
November 6	Strategic Planning

Future Agenda Items

Legislative Updates
Regulation Hearing and Adoption
Occupational Therapy Compact

Comments from Board Members