



**State of Nevada
Board of Occupational Therapy**

BOARD POLICY MANUAL

May 23, 2020; R 2.18.23; R 11.9.24

TABLE OF CONTENTS

Page No.

PRELUDE	6
SECTION 01:00 LICENSING	6 - 11
01:01 Initial Applications	6
01:02 Application Processing - On-Line Applications	6
01:03 Licensing Fees	6
01:031 Processing Fee	7
01:032 License Fee	7
01:033 Renewal Fee	7
01:034 Deferral or Waiver of Fees During Declaration of Emergency	7
01:04 Pending Applications	7
01:05 Acceptable Documentation	7
01:051 Verification of Current NBCOT Certification	7
01:052 Verification of Licensure in Another State	7
01:053 Nevada Jurisprudence Exam	7
01:054 Veterans / Military Spouses	7
01:055 NBCOT Confirmation of Exam Registration and Eligibility to Examine	7
01:056 Applicant Photograph	8
01:06 Approved Applications	8
01:07 Verification of Nevada Licensure	8
01:08 Provisional License	8
01:081 New Graduates	8
01:082 Practitioners Without Current NBCOT Certification	8
01:09 Conversion to Standard License	9
01:10 Reinstatement of Standard License	9
01:11 License Renewal	9
01:111 Standard License Renewal	9
01:112 Late Renewal	9
01:113 Provisional License Renewal	9
01:114 Temporary License Renewal	9

Table of Contents	Page No.
01:12 Inactive Standard License	10
01:13 Conversion of Inactive License to Active Status	10
01:14 Moral Character Determination	10
01:141 Factors to be Considered	10
01:142 Legal Factors Not Considered Potential Moral Character Issues	11
01:143 Legal Factors Considered Potential Moral Character Issues	11

SECTION 02:00	CONTINUING EDUCATION	12 - 13
----------------------	-----------------------------	----------------

02:01 Continuing Education: Standard License Renewal; Reinstatement Applications	12
02:02 Continuing Education Documentation	12
02:03 Carry-Over of Excess Continuing Education Hours	12
02:04 Request for Reduction, Extension or Full Waiver of Continuing Education Hours	12
02:05 Audit of Continuing Education Requirements	13
02:06 Approval of Continuing Education Activities or Courses	13
02:07 Guidelines to Consider in Selection of Continuing Education Activities	13

SECTION 03:00	SUPERVISION	14
----------------------	--------------------	-----------

03:01 Supervisory Reporting	14
03:02 Supervisory Responsibility	14
03:03 Supervisory Log(s)	14
03:04 Client / Patient Records - Documentation, Review and Signing of Records	14

SECTION 04:00	COMPLIANCE	15 - 16
----------------------	-------------------	----------------

04:01 Reporting: Employment, Contact Information, Supervision	15
04:02 Compliance Monitoring and Reviews	15
04:03 Informal Monitoring	15
04:04 Formal Monitoring Process	15
04:05 Resolution	16
04:06 Monitoring Reports	16
04:07 Follow-Up Monitoring	16
04:08 No Response to Notice of Monitoring or Audit	16

SECTION 05:00	ADMINISTRATIVE SANCTIONS / COMPLAINTS	17 - 19
05:01 Administrative Sanctions		17
05:02 Progressive Sanctions		17
05:03 Formal Complaints		17
05:04 Complaint Process		18
05:041 Anonymous Complaints		18
05:042 Complaint Review		18
05:043 Determination of Validity		18
05:044 Formal Complaint Processing		18
05:045 Reporting of Disciplinary Action		19
SECTION 06:00	BOARD ADMINISTRATIVE POLICIES	20 - 23
06:01 Investment of Funds		20
06:011 Checking Account		20
06:012 Investments		20
06:013 Investment Authority		20
06:02 Reserve Funds		20
06:021 Review of Reserve Funds		20
06:022 Definition of Reserve Funds		21
06:023 Set-Asides from Reserve		21
06:024 Reserve Funds Balance		21
06:025 Variance to Reserve Fund Balance		21
06:026 Use of Reserve Funds during Times of Declared Emergency		21
06:03 Administrative Cost Sharing		22
06:031 Co-location Determination		22
06:032 Cost Allocation		22
06:0321 General Operating Costs		22
06:0322 Lease expenses		23
06:0323 Direct Costs		23
06:033 Annual Notice of Co-Location Cost Allocation		23
06:034 Co-Locating Regulatory Boards		23

Table of Contents	Page No.
-------------------	----------

06:04 Language Plan	23
06:041 Language Access Coordinator	24
06:042 General Policy Statement	24

SECTION 07:00	BOARD PRACTICE POLICIES	25 - 26
----------------------	--------------------------------	----------------

07:01 Interdisciplinary Practice	25
07:011 Determining Practice Factors	25
07:02 Patient Abandonment	26
07:021 Inadequate Patient Care	26
07:022 Determination of Patient Abandonment	26
07:023 Determination of Employment Issues	26

SECTION 08:00	CRIMINAL HISTORY PETITIONS	27-28
----------------------	-----------------------------------	--------------

08:01 Petition for Review of Criminal History	27
08:02 Process for Submission and Determination of Criminal History Petitions	27
08:03 Remedies for Determination of Disqualification	27
08:04 Resubmission of Petition	27
08:05 Cost of Petition Submission	27
08:06 Pre-Determination Prior to Application Not Binding	28

SECTION 09:00	ADVISORIES; NOTICES; GUIDELINES	29
----------------------	--	-----------

DISCIPLINARY GUIDELINES	05/23/20
ADVISORY NOTICE ON DRY NEEDLING	08/10/19
PRODUCTIVITY BEST PRACTICES	11/19/16
CHALLENGES IN SCHOOL BASED PRACTICE	05/04/10
LANGUAGE ACCESS PLAN	07/18/24

PRELUDE

Pursuant to the provisions of NRS Chapter 640A, the Nevada State Board of Occupational Therapy is charged with the protection of the public health, safety and welfare by ensuring that only competent and scrupulous persons practice occupational therapy in the State and persons who practice occupational therapy maintain an appropriate standard of professional conduct.

The Board licenses qualified occupational therapists and occupational therapy assistants and regulates the professional practice of occupational therapy throughout the State pursuant to NAC 640A.

The Board establishes the law and regulations pertaining to the practice of occupational therapy in this State and approves policies to clarify processes required to implement law and regulations.

The Executive Director of the Board has been delegated the responsibility for determining the means and practices necessary to carry out the Board's initiatives, and to enforce laws and regulations in accordance with the Board's directives.

SECTION 01:00 LICENSING

01:01 Initial Applications

On-Line Applications for initial licensure are submitted electronically, with capability to upload required documentation. Hard copy applications are available upon request from the Board office.

01:02 Application Processing - On-Line Applications

Applications received electronically are reviewed for completeness, receipt of payment and documentation. Applications are approved and the license is issued when all components are complete. An applicant may check the status of an initial application on-line through the Board website.

Application processing and initial license issuance is approved within 3 - 5 business days of receipt of final documentation. In most cases, the processing time is shortened if the initial application is complete upon submittal.

Renewal applications received electronically which are complete are automatically approved and the renewed license is issued immediately. Renewal applications which contain affirmative legal questions, requests for CE waivers or are missing components or payment of fees are pending and require staff review and approval prior to renewal of the license.

01:03 Licensing Fees

Licensing Fees are due at time of application. A processing fee is assessed for an Initial Application and a Reinstatement Application. Any fee paid in error through duplication or erroneous amounts will be refunded upon notification and verification by Board staff of the error or duplicate payment.

01:031 Processing Fee - The processing fee is not refundable.

01:032 License Fee - The license fee is refundable if the applicant withdraws an application prior to the license being issued.

01:033 Renewal Fee - Renewal fees are not refundable unless the applicant has paid the fee in error and notifies the Board within 15 days that he/she does not intend to renew their license and will not be practicing in the State of Nevada.

01:034 Deferral or Waiver of Fees during Declaration of Emergency - Deferral and/or waiver of fees for licensure in Nevada are authorized to ensure vital and essential healthcare services are available and reduce the economic impact to licensees, individuals and families affected by a national or state Declaration of Emergency.

01:04 Pending Applications

Applications submitted to the Board are in pending status until approved after verification of receipt of all required documentation and payment of fees.

Pending applications will be retained for a maximum of **90** calendar days from date of receipt. On the **91st** calendar day, the application will be denied as in-complete and will not be processed.

01:05 Acceptable Documentation

01:051 Verification of Current NBCOT Certification

Acceptable documentation to support current certification:

- on-line verification printout from NBCOT; or
- written verification sent directly from NBCOT

01:052 Verification of Licensure in Another State

Acceptable documentation to verify licensure within the **previous 5 years** for verification purposes:

- Written verification received directly from the regulatory entity; or
- On-line verification printout from official regulatory entity website dated within 10 days of date of application; or
- Electronic verification received directly from the regulatory entity.

01:053 Nevada Jurisprudence Exam

The Jurisprudence Exam is on-line at www.nvot.org and is open book format. Exam scores are sent directly to the Board.

01:054 Veterans / Military Spouses

Acceptable documentation to verify military and veteran status, including military and veteran spouses:

- Documentation of military affiliation from an official source

01:055 NBCOT Confirmation of Examination Registration and Eligibility to Examine

Acceptable documentation:

- Confirmation letter sent directly from NBCOT

01:056 Applicant Photograph

Initial Applications must include a photograph of the applicant:

Acceptable documentation:

- Passport Photo
- Personal Photo
- Driver's License with Photo

01:06 Approved Applications

A Licensee will be notified by email that their application has been approved and license has been issued. Licensees may print their license card at any time after issuance through the on-line license system.

01:07 Verification of Nevada Licensure

Electronic verification of licensure can be obtained through the State of Nevada, Board of Occupational Therapy website, www.nvot.org. On-line electronic verification is considered primary source verification.

Official written verification of a license may be requested through payment on-line by credit card of the verification fee indicating the agency/organization to which the verification is to be transmitted. Written requests with check payment are also accepted.

Written verification will be sent within 3 business days of receipt of the request.

01.08 Provisional License

A Provisional License may be requested when an applicant meets the educational requirements for licensure but has not taken the NBCOT examination or does not hold current NBCOT certification at time of application.

01.081 New Graduates

An applicant who is a new graduate of a program of occupational therapy who has not taken or passed the NBCOT certification examination must request that NBCOT provide Confirmation of Examination Registration and Eligibility to Exam Certification directly to the Board.

When scheduling the NBCOT examination, the applicant must request that the score on the examination be provided to the Board, when available.

01:082 Practitioners Without Current NBCOT Certification

An applicant for a provisional license who has not retained current certification with NBCOT and has not practiced within the previous 5 years must provide proof of application for reinstatement of their NBCOT certification.

01:09 Conversion to Standard License

All Standard License eligibility requirements must be completed prior to a request to convert a Provisional or Temporary License to a Standard license.

A request to convert to a Standard license is documented by payment of the conversion fee, proof of NBCOT certification and, if applicable, documentation of completion of the minimum hours of supervised practice.

Upon verification of qualifications, a Standard license will be issued with an expiration date of two (2) years from the **initial license date** of the Temporary or Provisional license.

01:10 Reinstatement of Standard License

A practitioner must submit a hard copy application for reinstatement within 5 years of the date of expiration of the initial license.

A reinstated license will retain the initial license number; a new effective date and expiration date will be established.

On-line license verifications will show both the expired license term and the new term upon reinstatement of the license.

01:11 License Renewal

01:111 Standard License Renewal

On-line renewal is open 60 days prior to the date of expiration of a standard license through the end of the 30 day late renewal period. Renewals will not be accepted after the 30 day late renewal period.

Hard copy renewal forms may be requested from the Board office, if on-line renewal is not feasible.

01:112 Late Renewal

An Application for License Renewal received after 12:00 am on the date of expiration and prior to the end of the 30 day late renewal period will automatically be assessed the late renewal fee. The Board will not waive a late renewal fee unless the fee was assessed as a result of technical or data system error.

01.113 Provisional License Renewal

A one-time renewal may be approved prior to expiration of the provisional license upon payment of the renewal fee and receipt of verification from NBCOT that the licensee has scheduled to take the NBCOT examination, with the scores to be transmitted directly to the Board.

01:114 Temporary License Renewal

A one-time renewal may be approved upon payment of the temporary license renewal fee prior to the expiration date of the initial temporary license.

A person who previously was issued a temporary license may not apply for another temporary license until 6 months after the expiration of his last temporary license.

01:12 Inactive Standard License

A licensee may place his/her standard license on inactive or inactive-retired status at time of license renewal. An inactive standard license may be renewed as either active or inactive for the license renewal term. Continuing education is required at time of license conversion to active status.

An OTA who holds an inactive license is not required to have a supervising OT while his/her license is on inactive status.

01:13 Conversion of Inactive License to Active Status

A licensee whose standard license has been on inactive status may convert the license to an active status at any time prior to the license expiration date by payment of the license conversion fee and submission of continuing education, or upon renewal of the license.

01:14 Moral Character Determination

Prior to the approval of an application which contains an affirmative YES to any legal question, a review shall be conducted of the explanation provided by the applicant. The individual may be requested to provide further clarification or additional documentation to substantiate the circumstances and/or resolution of the incident reported.

The Executive Director is authorized to make the determination on whether to bring any application before the Board for determination of qualifications for licensure.

01:141 Factors to be Considered

The following factors shall be considered when determining whether a legal issue constitutes a potential lack of moral character:

- Nature and severity of the act(s), offense(s), or crime(s);
- Actual or potential harm to the public and/or to any patient;
- Prior disciplinary record;
- Number and variety of violations;
- Mitigating evidence:
 - Length of time in practice
 - Illness or death of a family member or other personal circumstances affecting licensee's performance at the time of the incident;
- Rehabilitation evidence;
- Length of time since the act(s) or offense(s) occurred; and
- Compliance with conditions of sentence and court-ordered probation, if any.

If it is determined a potential lack of moral character may exist, the applicant shall be notified that their application must be considered by the Board and the application will be placed on the agenda for consideration at the next regularly scheduled meeting of the Board.

01:142 Legal Factors Not Considered Potential Moral Character Issues

1. Driving Under the Influence (DUI); first instance, no injuries;
2. Minor in Possession of Alcohol;
3. Domestic Custody Disputes;
4. Minor Traffic Violations;
5. Public Disturbance, no injuries;
6. Non-criminal convictions more than 10 years old;
7. Prior professional disciplinary action older than 10 years, with no subsequent violations;
8. Prior professional disciplinary action, satisfactorily resolved with no re-occurrence;
9. Legal and disciplinary actions previously reported to the Board.

01:143 Legal Factors Considered Potential Moral Character Issues

Within the previous 10 years:

1. Repeat DUI citations, or convictions;
2. Drug Abuse conviction;
3. Sexual Abuse; Elder or Child Abuse, Domestic Violence or related convictions;
4. Disciplinary action against any professional license relating to clients, services or legal records;
5. Disciplinary actions resulting in suspension or revocation of ANY professional license;
6. Fraud, Extortion, Embezzlement, Theft;
7. Any Criminal conviction;
8. Any civil or criminal legal action related to the provision of Occupational Therapy services.

02:01 Continuing Education: Standard License Renewal; Reinstatement Applications

Applicants for renewal or reinstatement of a standard license to practice as an occupational therapist or occupational therapy assistant must complete continuing education requirements and provide and/or retain documentation of completion.

02:02 Continuing Education Documentation

Documentation of completion of 24 hours of continuing education may be uploaded at time of on-line license renewal. Documentation must be retained and submitted to the Board upon request or notice of audit of continuing education and with a License Reinstatement Application.

A licensee who is a new graduate is required to complete 12 hours of continuing education for the first renewal of a Standard license.

To qualify as a new graduate, a licensee must have graduated from an occupational therapy program within the previous 12 months from the date of initial application.

Documentation may be comprised of but is not limited to:

- certificates of completion and/or attendance for each continuing competency activity or course;
- Sign in Sheets for in-service training with description of course
- Letters from educational institutions documenting Level I and Level II fieldwork supervision
- Academic and CE Transcripts

02:03 Carry-Over of Excess Continuing Education Hours

If a licensee completes more than 24 hours of continuing education in a biennial renewal cycle, he/she may carry-over a maximum of 10 continuing education hours. Excess hours will be automatically applied toward completion of the requirement for the following renewal cycle.

02:04 Request for Reduction, Extension or Full Waiver of Continuing Education Hours

A written request for a reduction, extension or full waiver of continuing education hours must be submitted prior to or at time of license renewal. The request must include the extenuating circumstances that affected the completion of continuing education and the requested remedy to the deficiency.

If a waiver is granted, the CE hours waived will be added to the total hours required to be completed for the following renewal cycle.

If a waiver is not approved in full, the licensee may be granted up to three (3) months to fulfill any CE hours necessary to fulfill the required continuing education.

A waiver or extension of time for completion of continuing education will not be granted more than once during a single renewal cycle or more than one time in two (2) successive renewal cycles.

02:05 Audit of Continuing Education Requirements

Random audits of continuing education documentation will be initiated not less than annually. Audits will include a minimum of 30% of licensees who renewed their licenses and were not selected for a CE audit in the previous renewal cycle prior to the period being audited. Additional licensees may be selected for CE audit or a CE audit may be waived at the discretion of the Executive Director. If a waiver is approved, that licensee will automatically be included in the subsequent random audit pool.

Audits may include internal reviews of CE documentation submitted on-line at time of license renewal or by written request for submittal of CE documentation at time of CE audit.

A Notice of CE Audit will be transmitted by e-mail or by US mail if no e-mail address is on record. Documentation must be provided within 30 days of the Notice of CE Audit. A Final notice of CE Audit will be transmitted by both email and US mail if a response is not received.

Failure to respond to a Notice of CE Audit will be grounds for disciplinary action for non-compliance with continuing education requirements.

02:06 Approval of Continuing Education Activities or Courses

A person may not receive credit for the same continuing education activity or course during two successive renewal periods.

Advance approval of CE courses is not required. A licensee may request approval for a specific continuing education activity or course by submitting a written request with the proposed activity/course description and hours to be credited. The course/activity must be within the scope of practice of occupational therapy and must not be clearly within the scope of practice of another profession. Courses/activities that are identified by AOTA as not being allowed for professional development will not be approved. All courses approved by AOTA and NBCOT are accepted for continuing education credit.

Academic Courses:	1 course credit = 10 CE hours
NBCOT Approved PDU:	1.25 PDU = 1 CE hour
AOTA Approved Courses:	1 course credit = 1 CE hour

02:07 Guidelines to Consider in Selection of Continuing Education Activities

In determining applicability of coursework for credit toward continuing education hours, the factors the licensee may consider include, but are not limited to the following:

- Whether the course or curriculum is applicable to the practice of occupational therapy
- Whether the education increases, maintains or diversifies the knowledge of the licensee
- Whether there are documentation requirements for attendance or contact hours
- Whether there is an evaluation or test of the knowledge/coursework upon completion
- Whether documentation of completion or certificates of completion are awarded or given
- Whether the course is approved by an accrediting organization.

It is the responsibility of the licensee to determine the applicability of the proposed course or activity to the licensee's occupational therapy practice. The licensee must document the applicability by briefly summarizing the information he/she learned and how the information will be used in his/her practice when completing the Continuing Education section of the renewal application.

SECTION 03:00 SUPERVISION

03:01 Supervisory Reporting

Supervision by a licensed OT is required for all OTA and Provisional Licensees. Supervisory updates and changes must be reported within 30 days of the change. Notification of changes in supervisory status are reported electronically through the on-line license system accessed through the Board website.

03.02: Supervisory Responsibility

The treating Occupational Therapist and the Occupational Therapy Assistant are **jointly responsible** for documenting supervision. The Primary Supervisor for each employer on record must review and sign documentation maintained by the OTA and treating OT(s) verifying compliance with supervisory requirements. Documentation may include the preparation of daily or weekly treatment, or intervention schedules, logs of supervision or patient records.

03:03 Supervisory Log(s)

At a minimum, a supervisory log must contain:

- the date and time or length of the supervisory inter-actions,
- the type of supervision provided and/or received;
- a summary of the subject matter covered during the supervision;
- signature/initial of the treating occupational therapist for each daily entry, and
- signature of Primary Supervisor and occupational therapy assistant certifying the supervisory log has been reviewed and complies with supervisory requirements.

The supervisory log shall document general supervision of not less than 1 hour for each 40 hours of work performed by the OTA and, in any event, not less than 1 hour per month. If the OTA has not worked during the month, the supervisory log must so state.

Licensees may utilize the sample Supervisory Log provided by the Board or may utilize another document format to record the required information.

An Occupational Therapy Assistant shall provide a copy of the Supervisory Log(s) to the Board upon request.

03.04: Client / Patient Records - Documentation, Review and Signing of Records

An Occupational Therapy Assistant shall document all treatment provided to a patient in the patient's record.

The Occupational Therapist and Occupational Therapy Assistant shall jointly ensure that each record regarding a patient treated by the occupational therapy assistant is reviewed, signed, and dated at least monthly.

SECTION 04:00 COMPLIANCE

04:01 Reporting: Employment, Contact Information, and Supervision

Licensees must update their employment status, contact information and supervisory changes, if applicable, within 30 days. Notification of changes are reported electronically through the on-line license system accessed through the Board website.

04:02 Compliance Monitoring and Reviews

Periodic reviews and monitoring will be conducted of licensee records in order to ensure compliance with occupational therapy law and regulations.

Monitoring shall include, but is not limited to:

- Continuing Competency Requirements
- Documentation of Supervision of OTA and Provisional OT
- Verification of Supervision
- Verification of Employment
- Verification of Contact Information

04:03 Informal Monitoring

Licensees will be notified if problem areas are discovered during review and/or monitoring. Notifications will include any corrective action required, including time schedules.

04:04 Formal Monitoring Process

The formal monitoring process shall be comprised of the following actions:

1. **Notice** of monitoring or audit shall be provided in writing through e-mail or USPS mail.

Notice shall identify the scope of the monitoring, specific documentation to be provided and/or verified, and date a response must be received by the Board.

2. A **Final Notice** of monitoring or audit will be issued within 30 days after a due date, if a response is not received. Attempts to contact a licensee by phone and/or e-mail will be made prior to issuing a Final Notice. The Final Notice will be sent by USPS mail.

The Final Notice shall identify the attempts to contact the licensee, specific NAC sections relative to the monitoring request, an extended date a response is expected and potential sanctions if the licensee does not respond.

3. An **Administrative Complaint** will be issued within 30 days after the due date of a Final Notice, if there is no response.

Notice of an Administrative Complaint will be sent by email and certified mail to the contact address of record. Additional copies of the notice may be sent by USPS mail to both the address of record and/or to the licensee, care-of the employer of record.

04:05 Resolution

If a monitoring determines insufficient data and/or documentation exists to determine compliance with law and regulations, a corrective action plan will be established. A corrective action plan may include, but is not limited to the following:

- Additional time to provide requested documentation
- Submittal of alternative documentation

04:06 Monitoring Reports

Written Monitoring Reports will document findings and compliance issues with corrective actions identified. Corrective actions may include but are not limited to:

- Verbal instruction and training; with follow-up monitoring;
- Written notice of non-compliance with follow-up monitoring;
- Notice of deficiency with disallowance of CE credits.

04:07 Follow-Up Monitoring

A licensee who is subject to a corrective action plan will automatically be included in the next monitoring selection to ensure corrective action has been taken.

04:08 No Response to Notice of Monitoring or Audit

A licensee who does not respond to a notice of monitoring or audit will be subject to sanctions up to and including an Administrative Complaint being issued by the Executive Director.

05:01 Administrative Sanctions

Administrative Sanctions will be assessed when a violation has no direct or apparent affect upon the health and safety of the public. Administrative Sanctions will be utilized prior to the issuance of a formal Administrative Complaint.

The formal Complaint process will be utilized when an Administrative Complaint is issued and in all cases when Complaints are filed by outside individuals.

05:02 Progressive Sanctions

A progressive level of sanctions will be utilized when informal reviews, formal monitoring or audit of licensee records indicate non-compliance with administrative requirements for reporting changes in contact information, employment status, name change, supervisory information or formal audits of continuing education and maintenance of supervisory logs.

- First Violation: Administrative Verbal Warning
- Second Violation: Written Warning
- Third Violation: Administrative Complaint

Progressive sanctions will not apply to a failure to respond to a formal monitoring or audit and will result in an Administrative Complaint.

In all cases, telephone contact will be attempted prior to the issuance of an Administrative Complaint.

In general, Administrative Sanctions and/or Administrative Complaints are Board actions that do not affect the health and safety of the public. Administrative Complaints may be subject to compliance reporting requirements of the “National Practitioner Data Bank” and “Healthcare Integrity and Protection Data Bank” dependent upon the circumstances and whether a formal disciplinary Hearing in the matter is warranted.

05:03 Formal Complaints

A formal complaint is an allegation against an individual, occupational therapist or occupational therapy assistant for violation of Nevada occupational therapy law and/or regulations.

A complaint may be filed by anyone, who believes a licensed occupational therapist, occupational therapy assistant or other individual, agency or organization has or is engaged in illegal or unethical activities regarding the practice of occupational therapy.

Complaints may result in dismissal, referral, formal investigation and/or disciplinary action.

Complaints, supporting evidence, documentation and investigative files are confidential until such time as a Formal Hearing on the matter is held.

The Board may recover reasonable attorney fees and costs relating to the complaint process and proceeding, if disciplinary action is imposed.

05:04 Complaint Process

A formal complaint must be submitted in the writing on the Complaint Form provided by the Board available on the Board website or upon request from the Board office.

Sufficient information and/or documentation must be provided to make a determination as to the validity of the allegations.

05:041 Anonymous Complaints

Complaints may be submitted anonymously and will be accepted but will not be processed if there is insufficient evidence or documentation of an alleged violation of law or regulation. Anonymity of the Complainant may make it impossible to process.

05:042 Complaint Review

Complaints are reviewed by the Executive Director upon receipt for determination of potential violation of law and regulations, and assigned a complaint case number. The Complainant is contacted if additional information or clarification is needed to make a determination.

Based upon the severity of the allegations and nature of the complaint, legal counsel may be consulted.

05:043 Determination of Validity

Administrative Dismissal - The complaint may be dismissed without further processing if:

- it is incomplete and/or unsubstantiated and no further documentation or evidence is available from the Complainant, or
- the Board has no authority over the alleged action and referral to another regulatory agency is not appropriate.

The Complainant will be notified by letter and the case will be closed.

Referral - If the complaint is clearly not under the authority of the Board, but appears to be within the authority of another regulatory body, the complaint will be referred to the appropriate regulatory body and the Complainant will be notified of the referral.

Complaints from Outside Sources - If the complaint alleges actions within the scope of the practice of occupational therapy and under the authority of the Board, an informal investigation will be opened to determine whether sufficient evidence has been presented to proceed with a formal investigation.

05:044 Formal Complaint Processing

Due Process - When a formal investigation is warranted, the Respondent is notified that a complaint has been received with a summary of the allegations contained in the Complaint and potential violations of law and/or regulations.

- The Notice of Complaint will be sent by US Mail, certified, regular delivery and by email
- The Respondent has 20 days from date of receipt to submit a response to the allegations
- The Respondent may obtain legal counsel for representation in the matter

Formal Investigation - No information on an active investigation will be released. The Investigator will issue a report upon conclusion of the investigation with findings. In consult with the Board counsel, the Executive Director will make recommendations for further action or resolution based upon the investigative report.

Response to Complaint - If the Respondent has obtained legal counsel, all further correspondence will be initiated through the Board's legal counsel who will consult with the Executive Director during the duration of the Complaint process.

Settlement and Consent Decrees - The Respondent may agree with the allegations in the Complaint in full or in part and may enter into a Consent Decree during any phase of the complaint process. The Consent Decree is negotiated by the Board legal counsel in consultation with the Executive Director. A Consent Decree will be considered by the Board at a public hearing or meeting of the Board. A Consent Decree is an agreed to disciplinary action and becomes a public record.

Formal Hearing - If sufficient evidence is determined to substantiate a violation of law and/or regulations, a Formal Hearing will be scheduled. Case documents and details will remain confidential until released during the Formal Hearing process.

The Formal Hearing is held before the Board; the Board Chair presides. The Board legal counsel and assigned prosecuting attorney will prosecute the Complaint Case. Testimony will be heard from all parties; both sides may provide witness testimony, and present evidence to support their case.

Board members may ask questions and request additional clarification during the Formal Hearing.

Disciplinary Determination - The Board may take any combination of the following actions upon conclusion of the legal presentation and consideration of the evidence presented:

- Dismiss
- Impose Disciplinary Action as determined by the Board
- Suspend a License for a period of up to 1 year
- Revoke a License for a period of up to 5 years
- Deny a License in a case of practicing without a license

05:045 Reporting of Disciplinary Action

All formal disciplinary actions are reported to:

- National Practitioners Data Bank;
- Nevada Legislative Counsel Bureau Disciplinary Action reporting system;
- AOTA;
- NBCOT; and
- Any other state regulatory agencies in which the licensee holds a current license.

06:01 Investment of Funds**06:011 Checking Account**

All receipts and deposits are recorded into the checking account including credit card and check receipts and interest earned on the account.

- The checking account balance shall be reviewed and adjusted, if needed, to meet the operating needs of the Board upon approval of the budget for the subsequent fiscal year.
- Funds in excess of 200% of the approved budget may be made available for fixed-income investment purposes.

06:012 Investments

Funds in excess of 200% of operating needs may be invested in short and/or long term fixed income instruments, certificates of deposit (CD's). All investments must be fully insured by the federal government (FDIC).

- No investment term may exceed 60 months (5 years);
- No more than 25% of funds shall be invested for a term of 60 months;
- A minimum of 30% of funds shall be invested in instruments with terms of 24 months or less;
- Investments shall be made at the highest return rate available for the period;
- At least two investment instruments shall reach maturity each fiscal year.

06:013 Investment Authority

The Board has delegated to the Executive Director the authority to determine the selection and execution of investment instruments in accordance with this section. Oversight of investment activities is accomplished by review of monthly investment activity statements by the designated Board member for financial reviews.

A report on investment activities shall be provided at each regularly scheduled Board meeting.

06:02 Reserve Funds

The Board has established the term of a standard license as two (2) years, and set the fee for such license or renewal of such license at a rate determined to be sufficient to pay the expenses of the Board.

Establishment of reserve funds ensure the Board has sufficient resources to meet current and future expenses of the Board.

06:021 Review of Reserve Funds

The Board shall review the financial position of the Board at least annually to determine if sufficient funding is available in "reserve" to cover current and future expenses of the Board. Future expenses shall be budgeted annually and estimated for a two-year period to coincide with the term of a standard license.

06:022 Definition of Reserve Funds

Reserve funds are the total of fund balance plus deferred revenue received but not recognized at a specific period in time. "Reserve funds" shall be adjusted for prepaid expenses, accrued liabilities, and budgeted and/or authorized expenses not yet obligated when calculating available reserves.

06:023 Set-Asides from Reserve

The amount of funds to be set-aside for unanticipated expenses shall be determined by the Board, after consideration of all budgetary needs. Unanticipated expenses may include, but are not limited to, legal costs charged for normal compliance reviews of law and regulations, on-going and future disciplinary cases, and investigations; Legislative actions that require additional time and expenses for implementation or compliance; and state initiated actions which may affect administrative costs and associated expenses.

06:024 Reserve Funds Balance

Set-Asides shall reduce Fund Balance to determine available Reserve Fund Balance. Reserve Fund Balance shall be established at a minimum of two (2) years and a maximum of four (4) years projected expenses for payment of Board operations.

The calculation of Reserve Funds Balance shall be based upon the financial statement Balance Sheet for the immediately preceding fiscal year, ending June 30 of each year and shall be reviewed at time of Fiscal Year Budget approval.

If Reserve Funds Balance as of June 30 falls below two (2) years projected budgeted expenses, the Board will take immediate action to initiate cost savings and seek an increase in fees, if determined necessary for the continued operation of the Board.

If Reserve Funds Balance as of June 30 exceeds four (4) years' projected operating expenses, the Board will consider a reduction in fees assessed registrants, in order to bring the reserve balance within acceptable levels.

06:025 Variance to Reserve Fund Balance

If extenuating circumstances arise that may affect the "Reserve Fund Balance" either due to extraordinary operating expenses or events outside the administration of the Board which were not anticipated or included in fund set-asides, the Board may take immediate action, including but not limited to approving a variance to the Reserve Fund policy.

06:026 Use of Reserve Funds during Times of Declared Emergency

A variance to the Fund Reserve policy is automatically approved upon a Declaration of Emergency. During times of declared emergency and related directives, deferral and/or waiver of fees for licensure in Nevada are authorized to ensure vital and essential healthcare services are available and reduce the economic impact to licensees, individuals and families affected by a national or state Declaration of Emergency.

06:03 Administrative Cost Sharing

The Board of Occupational Therapy has established Administrative Office space and may benefit from co-location and cost sharing agreements. Co-location and cost sharing reduces administrative costs, creates efficiencies in operations, and provides increased quality of services and public access to State of Nevada Regulatory Board services.

The purpose of this policy is to establish the parameters for co-location and cost sharing within the Board of Occupational Therapy administrative offices by a Nevada Regulatory Board (requesting Board).

06:031 Co-location Determination

In determining whether co-location would benefit the Board, the following factors shall be considered:

Requesting Board:

1. Nature and function of the requesting regulatory Board;
2. Number of staff and number of hours staff will be physically present;
3. Furniture and equipment needs;
4. Number of professionals regulated, i.e. licensees;
5. Funding availability and annual budget.

Board of Occupational Therapy:

1. Compatibility with functions of the Board of Occupational Therapy;
2. Potential impact on current staff and operations; and
3. Availability of space, shared or dedicated;
4. Security of facility

If it is determined that co-location may be beneficial to both the Board of Occupational Therapy and Requesting Board, a formal agreement shall be presented for approval at the next scheduled meeting of the Board.

06.032 Cost Allocation

Co-location cost allocation will be comprised of general operating/shared expenses which are general in nature; lease expenses which are incurred by the Board of Occupational Therapy through contractual lease agreement; and direct costs which are readily identifiable and specific to the Board for which the cost is incurred.

06.0321 General Operating Costs

General operating expense allocations will be determined annually based upon the actual costs incurred during the previous fiscal year. General operating expenses include, but are not be limited to:

- (a) General office supplies;
- (b) Copier and postage meter equipment lease/rental;
- (c) Maintenance of equipment; and
- (d) Internet service

General operating expenses will be allocated based upon the percent (%) of total number of licensees regulated by each Board occupying the office as of June 30 of each fiscal year.

06:0322 Lease expenses

Lease expenses will be determined annually based upon the actual cost per square foot to be paid during the current fiscal year pursuant to the facility lease agreement.

Lease expenses will be allocated based upon State of Nevada leasing services worksheet for allocation of space for pro-rated full time equivalent administrative clerical staff plus 20% of staff space for use of general common areas.

The Board of Occupational Therapy may revise the costs allocated based on actual expenses incurred during the previous fiscal year or any changes to staffing levels of the requesting Board.

06:0323 Direct Costs

The requesting Board will be responsible for payment of all direct costs associated with the administrative functions of the Board. Direct costs include, but are not limited to:

- (i) office furniture and computer;
- (ii) telephone lines and service;
- (iii) printing, direct supplies and incidentals;
- (iv) postage, metered and stamped
- (v) personnel

06:033 Annual Notice of Co-Location Cost Allocation

The Board of Occupational Therapy shall prepare and provide the Requesting Board an annual Co-location Cost Allocation breakout for the current fiscal year by July 31 of each year.

The Executive Director shall calculate the annual co-location cost allocation and provide notice as provided in this policy.

06:034 Co-Locating/Cost Sharing Regulatory Boards

The Board has entered into Administrative Cost Sharing Agreements with the following Nevada boards:

- Speech Language Pathology, Audiology and Hearing Aid Dispensing Board
- Board of Environmental Health Specialists
- Nevada Board of Applied Behavior Analysis
- Nevada State Board of Athletic Trainers
- Nevada State Board of Podiatry
- Nevada State Board of Optometry

06.04 Language Access Plan

The Board has developed a Language Access Plan pursuant to NRS 232.0081 and will review and update the Language Access Plan biennially.

The Board will ensure services are accessible to every person regardless of their ability to speak, understand, read, or write English. The Board will take all reasonable steps to provide limited English Proficient individuals with meaningful access to its services. The Board seeks to reduce barriers by increasing its capacity to provide services to people in

their preferred languages.

The purpose of this Policy is to provide guidance to address any potential barriers to access to Board services due to limited English proficiency.

06.041 Language Access Coordinator

The Language Access Coordinator is responsible for ensuring services are accessible to LEP individuals; and that staff are knowledgeable and trained in resources available to LEP clientele.

The Executive Director is the designated Language Access Coordinator and can be reached at 775-746-4101 or by email at board@nvot.org.

06.042 General Policy Statement

The Board of Occupational Therapy is committed to equity and will take all reasonable steps to provide limited English proficient (LEP) individuals with meaningful access to all its services, programs, and activities.

The Board, rather than the LEP individual, bears the responsibility for providing appropriate language services, regardless of the LEP individual's preferred language, at no cost to the LEP individual.

Staff at the initial points of contact have the specific duty to identify and record language needs.

Use of informal interpreters such as family, friends of the person seeking service, or other customers is not allowed. Minor children are prohibited from acting as interpreters.

Staff may not suggest or require that an LEP individual provide an interpreter in order to receive Board services.

07:01 Interdisciplinary Practice

The Board recognizes that licensed occupational therapists and occupational therapy assistants may also hold professional licensure in related professional practice areas such as physical therapy that are regulated under provisions that may be more or less stringent than the requirements established for the practice of occupational therapy.

The purpose of this policy is to provide guidance in determining the applicability of established laws and regulations relating to practice in interdisciplinary settings; establish a basis for determining the legal authority and jurisdiction of activities which may cross professional practice settings; and to clarify the governing jurisdiction when determining whether a licensee is in compliance with applicable laws and regulations and discipline.

07:011 Determining Practice Factors

Client Services – type of service for which the client was referred (OT or PT)

If the client/patient is referred for or receiving both OT and PT services; the services should not be provided concurrently at the same time. There should be a distinct differentiation in the client records to distinguish what services are being provided by date/time and activity.

Therapy Billing – insurance or payment codes for billing of services (OT or PT)

Appropriate codes should be utilized for the services rendered based upon the actual services received as documented in the client record. How an activity is billed will be considered in determining the governing jurisdiction and authority.

Supervision Requirements – practice of assistants, aides, technicians and unlicensed individuals

Regulatory requirements for the supervision of assistants, aides, technicians and unlicensed individuals may differ for each profession under which an individual may be licensed. In determining whether a violation of supervisory requirements has occurred, the Board will consider the licensee's actions based upon the OT Board's established regulations and jurisdiction; notwithstanding the authority of another jurisdiction.

Reasonable Practice – multi-jurisdictional activities

Individuals holding multiple professional licenses should be knowledgeable of the regulatory requirements of each professional licensure board under which they hold licensure.

07:02 Patient Abandonment

The purpose of this policy is to provide guidance in determining whether actions by an occupational therapy practitioner constitutes patient abandonment and thus lead to possible discipline against a practitioner's license for unprofessional conduct.

07:021 Inadequate Patient Care

Patient Abandonment may occur when a licensee fails to provide adequate patient care. Patient safety is the key factor in determining the licensee's responsibility in a given situation.

07:022 Determination of Patient Abandonment

Examples of **abandonment** may include but not be limited to:

1. Leaving the employment site during an assigned shift while on duty for the shift without properly advising appropriate personnel;
2. Leaving an emergency patient care situation where the action would be overtly dangerous to the patient, based on the standard of actions of a reasonable and prudent practitioner;
3. Inattention to, or the leaving of a client in acute distress, without proper notification of supervisor and appropriate arrangement for continuity of care;
4. Sleeping while on duty;
5. Insufficient observation (frequency of contact) with a client;
6. Failing to report for an assignment where the practitioner is the sole provider of care (e.g. home health care) and failing to notify his/her supervisor and/or employer.

07:023 Determination of Employment Issues

Examples of **employment issues** which are not considered by the Board to constitute patient abandonment:

1. Failure to work beyond her/his scheduled shift;
2. Refusal to work in an unfamiliar, specialized, or "high tech" area when there has been no orientation or educational preparation, or employment experience;
3. Refusal to report to work;
4. Failure to return from a schedule leave of absence;
5. Resigning from a position and not fulfilling the remaining posted work schedule;
6. Ending the employer-employee relationship without providing the employer with a period of time to obtain replacement staff for that specific position (such as resigning without notice).

Providing appropriate and adequate personnel to care for patients is the responsibility of the employer.

SECTION 08:00 CRIMINAL HISTORY PETITIONS
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08:01 Petition for Review of Criminal History

This section is designed to provide general information on the Board process for a criminal history petitions pursuant to AB 319 (2019). AB 319 requires a regulatory body to develop and implement a process by which a person with a criminal history may petition the regulatory body to review the criminal history of the person to determine if the person's criminal history will disqualify the person from obtaining a license from the regulatory body.

08:02 Process for Submission and Determination of Criminal History Petitions

A person with prior criminal history may submit a written petition to the Board requesting that the Board make a determination as to whether or not the person's criminal history will disqualify the person from obtaining any license issued by the Board. A person with a criminal history may petition the Board at any time, including, without limitation, before obtaining any education or paying any fee required to obtain a license from the Board.

The Executive Director will review all petitions within the guidelines of Board Policy 01:14 Moral Character Determination. If the petition contains criminal history that falls under the policy guidelines as "factors not considered a potential moral character issue", the Executive Director shall notify the person of that determination not later than 90 days after the petition is submitted.

Any petition that contains criminal history that falls under the policy guidelines "factors considered a potential moral character issue" will be scheduled for review at a public meeting of the Board. Not later than 90 days after a petition is submitted, the Board will notify the person of the determination of the Board which shall include whether the facts contained in the petition would or would not disqualify a person from obtaining a license and any remedies to one or more disqualifying factors, if any.

08:03 Remedies for Determination of Disqualification

If a person with prior criminal history has been provided a letter of determination of disqualification with instructions on how to remedy the disqualification, a person may resubmit a petition not earlier than 6 months after receiving said instructions if the person remedies the determination of disqualification.

08:04 Resubmission of Petition

A person may submit a new petition to the Board not earlier than 2 years after the final determination of the initial petition submitted to the Board.

08:05 Cost of Petition Submission

The Board will not charge a fee for submittal of an initial petition. If an individual resubmits any petition, the Board shall charge and collect \$50 for processing of the subsequent petition as allowed by law.

08:06 Pre-Determination Prior to Application Not Binding

A determination of disqualification or qualifications made in advance of an application for licensing is not binding. The Board may rescind such a determination at any time and may reconsider any prior determination issued by the Board at time of submittal of an application for license.

SECTION 09:00 ADVISORIES; NOTICES; GUIDELINES

DISCIPLINARY GUIDELINES	05/23/20
ADVISORY NOTICE ON DRY NEEDLING	08/10/19
PRODUCTIVITY BEST PRACTICES	11/19/16
CHALLENGES IN SCHOOL BASED PRACTICE	05/04/10
LANGUAGE ACCESS PLAN	07/18/24



State of Nevada
Board of Occupational Therapy

DISCIPLINARY GUIDELINES

May 23, 2020

INTRODUCTION

In keeping with its obligation to protect the public health, safety and welfare of recipients of occupational therapy services from unsafe, incompetent, negligent or impaired occupational therapists and occupational therapy assistants, the Nevada Board of Occupational Therapy ("Board") has adopted the following recommended guidelines for disciplinary orders and conditions of probation for violations of the Occupational Therapy Practice Act.

The Board carefully considers the totality of the facts and circumstances in each individual case, with the safety of the public being paramount and to the extent not inconsistent with public protection, disciplinary actions shall be calculated to aid in the rehabilitation of the licensee.

Use of Guidelines - These guidelines are for use by Board members and staff, attorneys, administrative law judges, hearing officers and any licensee involved in settlement agreements, consent decrees, or formal hearings of disciplinary actions and proceedings. It is emphasized that these are guidelines and the Board acknowledges that there may be departures in individual cases depending upon mitigating or aggravating circumstances.

Probationary Conditions - Probation conditions are divided into two categories: (1) Standard conditions, to be used in all cases of probation; and (2) Optional conditions, to be imposed dependent upon the circumstances and nature of an individual case. Optional conditions should also be used if a probationary license is issued depending upon the nature and circumstances of the matter.

Revocation: Unsafe Practice - If, at the time of hearing, it is found that the Respondent for any reason is not capable of safe practice, the Board favors outright revocation of the license. If, however, the Respondent has demonstrated a capacity to practice occupational therapy safely, a stayed revocation order with probation is recommended.

Suspension / Summary Suspension - Suspension of a license may also be appropriate where the public may be better protected if the practice of the occupational therapist or occupational therapy assistant is suspended in order to correct deficiencies in skills, education or rehabilitation. An immediate Summary Suspension may be warranted, pending Board hearing, due to the nature of the offense that would be harmful or detrimental to the safety and well being of the public if the practitioner is allowed to continue providing occupational therapy services.

FACTORS TO BE CONSIDERED

In determining whether revocation, suspension or probation should be imposed in a given case, factors such as the following should be considered:

1. Nature and severity of the act(s), offense(s), or crime(s) under consideration;
2. Actual or potential harm to the public;
3. Actual or potential harm to any patient;
4. Prior disciplinary record;
5. Number and variety of violations;
6. Mitigation evidence;
7. Aggravating evidence;
8. Rehabilitation evidence;

9. In case of a criminal conviction, compliance with conditions of sentence and court-ordered probation;
10. Criminal record;
11. Time passed since the act(s) or offense(s) occurred.

Evidence of Rehabilitation:

The following documents are examples of evidence the Respondent may submit to demonstrate his or her rehabilitative efforts and occupational therapy competency:

- Successful completion of drug or alcohol treatment program;
- Individual or group counseling;
- Random, documented biological fluid screening;
- Participation in occupational therapy support groups;
- Education courses taken related to addictive disease;
- Adherence to a 12-step recovery program philosophy, or equivalent;
- Written documentation of participation in 12-step recovery groups, or equivalent;
- Recent, dated letters from counselors regarding Respondent's participation in a rehabilitation or recovery program, where appropriate;
- For licensees, statement from employers documenting that the employer is aware of the previous drug or alcohol abuse problems. Statement must also substantiate that while employed, there was no evidence of continued alcohol or drug use and that the respondent performed occupational therapy functions in a safe and competent manner;
- Recent, dated laboratory analyses or drug screen reports, where appropriate;
- Recent, dated performance evaluations from Respondent's employer;
- Recent, dated physical examination reports by a licensed physician, nurse practitioner, or physician assistant;
- Certificates or transcripts of courses related to occupational therapy that Respondent completed since the date of the violation. An occupational therapist or occupational therapy assistant whose license has been revoked can use his or her former license number to obtain continuing education credit or hours or for any other purpose.

Mitigation Evidence:

- Length of time in practice;
- No prior disciplinary action;
- Illness or death of a family member or other personal circumstances affecting licensee's performance at the time of the incident.

SITUATIONS IN WHICH REVOCATION IS THE RECOMMENDED PENALTY

- Unsafe Practice;
- Failure to file a response, notice of defense or to appear at a disciplinary hearing, where the Board has requested revocation;
- Violation of a condition(s) of Probation;
- Substantiated evidence or convictions of physical abuse or sexual offenses.

PROBATION TERMS AND CONDITIONS

The Board's primary responsibility is the protection of the public. The Board believes that in disciplinary matters where probation has been imposed, conditions should be established to provide for the public's protection and to allow the probationer to demonstrate rehabilitation.

The following conditions of probation provide for public protection and establish a mechanism to monitor the rehabilitation progress of a probationer. Generally, the Board recommends a ***minimum of three (3) years of probation*** unless a longer or shorter term is warranted.

For purposes of implementation of these conditions of probation, any reference to the Board also means staff working for the Nevada Board of Occupational Therapy or its designee.

Additional Terms and Conditions not listed below may be imposed as deemed appropriate by the Board.

LIST OF STANDARD PROBATIONARY TERMS AND CONDITIONS

1. Severability
2. Cost Recovery - Attorney's Fees and Costs
3. Obey all Laws
4. Address Change, Name Change, License Status
5. Quarterly Reports
6. Comply with the Board's Probation Program
7. Status of Residency, Practice or Licensure Outside of State
8. Submit Documentation
9. Probation Monitoring Costs
10. License Surrender
11. Function as a Licensee
12. Continuance of Probationary Term/Completion of Probation
13. Notification

LIST OF ADDITIONAL PROBATIONARY TERMS AND CONDITIONS

14. Suspension of License
15. Remedial and/or Continuing Education
16. Supervised Practice
17. Restricted Practice
18. Restitution
19. Community Service
20. Psychological Evaluation
21. Psychotherapy
22. Physical Evaluation
23. Biological Testing
24. Abstain from Use of Alcohol, Controlled Substances, and Dangerous Drugs
25. Ethics Course
26. Solo or Independent Practice
27. Meetings and Interviews

STANDARD PROBATION TERMS FOR SETTLEMENTS, CONSENT DECREES, DECISIONS AND ORDERS OF THE BOARD

(1) SEVERABILITY CLAUSE – Each condition of probation is a separate and distinct condition. If any condition of this Decision and Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Decision and Order, and all other applications thereof, shall not be affected. Each condition of this Decision and Order shall separately be valid and enforceable to the fullest extent permitted by law.

RATIONALE: The severability clause is required for all decisions and orders and stipulated agreements where there are conditions of probation, to avoid the possibility of all probation conditions being invalidated upon a successful appeal.

(2) COST RECOVERY – Respondent is hereby ordered to reimburse the Board the amount of \$_____ within forty-five (45) calendar days from the effective date of this decision for its attorney's fees and costs up to the date of the hearing. Failure to reimburse the Board's cost of its attorney's fees and costs shall constitute a violation of the probationary order, unless the Board or its designee agrees in writing to payment by an installment plan because of financial hardship. Any and all requests for a payment plan shall be submitted in writing by Respondent to the Board. However, full payment of any and all costs required by this condition must be received by the Board no later than one (1) year prior to the scheduled termination of probation. Periods of non-practice by Respondent shall not relieve Respondent of his or her obligation to reimburse the Board for its costs.

RATIONALE: The Board has statutory authority to collect investigative and legal costs and all orders should contain this provision.

(3) OBEY ALL LAWS - Respondent shall obey all federal, state and local laws and all rules and regulations governing the practice of occupational therapy in Nevada, and remain in full compliance with any court ordered criminal probation, payments and other requirements. A full and detailed account of all misdemeanor and felony arrests and convictions shall be reported by Respondent to the Board in writing within seven (7) days of occurrence.

CRIMINAL COURT ORDERS: If Respondent is under criminal court orders by any governmental agency, including probation or parole, and the orders are violated, this shall be deemed a violation of probation and may result in the filing of an accusation or petition to revoke probation or both.

OTHER BOARD OR REGULATORY AGENCY ORDERS: If Respondent is subject to any other disciplinary order from any other health-care related board or any professional licensing or certification regulatory agency in Nevada or elsewhere, and violates any of the orders or conditions imposed by other agencies, this shall be deemed a violation of probation and may result in the filing of an accusation or petition to revoke probation or both.

RATIONALE: All licensees are responsible for abiding by federal, state, and local laws. Licensees are also responsible for complying with criminal court orders. If a licensee is subject to other health-care related board or regulatory agency orders, violations of those orders may impact the status of his or her discipline by the Board. This condition emphasizes the Respondent's responsibility and specifies the Board's authority to take more immediate and severe action if other violations occur. If a licensee whose license is on probation violates other probationary conditions or order they may be unsafe to practice in this state.

(4) ADDRESS CHANGE, NAME CHANGE, LICENSE STATUS - Respondent shall inform the Board in writing within 30 calendar days of any change in his or her address of record, physical employment address, physical residence address, and any legal name change. Respondent shall maintain an active, current license with the Board, including while suspended from practice of occupational therapy unless otherwise specified by the disciplinary orders. Any misrepresentation by Respondent of his or her restricted license status to the public shall be a violation of the probation conditions.

RATIONALE: Informing the Board of address and name changes are necessary to ensure ongoing Board monitoring and contact with the Respondent.

(5) QUARTERLY REPORTS - Respondent shall submit quarterly reports signed under penalty of perjury stating whether there has been compliance with all the conditions of probation. Respondent shall submit a quarterly report no later than seven (7) calendar days from the beginning of the assigned quarter.

RATIONALE: This provides the Board with a mechanism for maintaining communication with the Respondents between meetings; gathering pertinent information from Respondent's; obtaining written materials, other than routine reports, that might be deemed necessary on an individual basis.

(6) COMPLY WITH THE BOARD'S PROBATION PROGRAM - Respondent shall fully comply with the conditions of probation established by the Board and all requirements necessary to implement the conditions of probation. Respondent shall cooperate with the Board in its monitoring and investigation of the Respondent's compliance with the conditions of probation. Respondent shall respond to all requests and inquiries from the Board within the time period specified by the Board. Upon successful compliance with the conditions of probation, and completion of the probation term, Respondent's license shall be fully restored.

RATIONALE: Full compliance with conditions of probation demonstrates a Respondent's commitment to rehabilitation and to correcting the problems which led to the disciplinary action.

(7) STATUS OF RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE - In the event Respondent should leave Nevada to reside or practice outside the state, Respondent must provide written notification to the Board of the dates of departure and anticipated return to the state. Respondent's probation is tolled, if and when he or she ceases practicing in Nevada. Period of practice outside of Nevada will not apply to the reduction of the probationary period. Respondent shall provide a list of all states, United States territories, and elsewhere in the world where he or she has ever been licensed as an occupational therapist or occupational therapy assistant or held any health-care related professional license or certificate. Respondent shall further provide information regarding the status of each license and certificate and any changes in the license or certificate status during the term of probation. Respondent shall inform the Board if he or she applies for or obtains an occupational therapist or occupational therapy license or certificate outside of Nevada during the term of probation. For purposes of this condition, non-practice due to Board ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

RATIONALE: Ensures that Respondents may not complete probation without being fully monitored for their period of probation in Nevada. This further ensures that the Board is aware of all licensure outside of Nevada as an occupational therapist or occupational therapy assistant or in any health care related capacity.

(8) SUBMIT DOCUMENTATION - Upon request, Respondent shall submit documentation to the Board including, but not limited to the following: quarterly reports, supervisory logs and authorization for release of confidential information. On a case-by-case basis, documents shall be required to contain statements

relative to Respondent's compliance with all the conditions of probation, and compliance with Board instructions.

RATIONALE: This provides the Board with a mechanism for maintaining communication with the Respondent between meetings; gathering pertinent information from the Respondent; and obtaining written materials, other than routine reports, that might be deemed necessary on an individual basis.

(9) PROBATION MONITORING COSTS: Respondent will be financially responsible for all costs incurred for carrying out the provisions of Probation, including the cost of reasonable assessments by the Board for the cost of monitoring compliance with the provision of this agreement.

RATIONALE: The Board has statutory authority to collect probation monitoring costs and all orders should contain this provision.

(10) LICENSE SURRENDER - If Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender his or her license to the Board. The Board shall evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Such surrender shall be accomplished through a written stipulated agreement, without the filing of an accusation or petition to revoke probation, and without further hearing. Upon formal acceptance of the surrender, Respondent shall deliver his or her license to the Board or its designee and Respondent shall no longer practice occupational therapy or be subject to the conditions of probation. Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. If Respondent re-applies for an occupational therapy license, the application shall be treated as a petition for reinstatement of a revoked license.

(11) FUNCTION AS A LICENSEE – Respondent, during the period of probation, shall engage in the practice of occupational therapy in Nevada for a minimum of sixteen (16) hours per week or sixty-four (64) hours per calendar month. In the event Respondent should leave Nevada to practice outside the state, Respondent must provide written notification to the Board of the dates of departure and anticipated return to the state. Respondent's probation is tolled, if and when he or she ceases practicing in Nevada. Periods of practice outside of Nevada will not apply to the reduction of the probationary period. In the event Respondent ceases to practice a minimum of sixteen (16) hours per calendar week or sixty-four hours per calendar month in Nevada, Respondent must provide written notification of that fact to the Board. The period when the Respondent is not practicing, the minimum number of hours, will not apply to the reduction of the probationary period. Absence from practice shall not relieve the Respondent from maintaining a current license or from fulfilling all of the terms and conditions of probation. For purposes of this condition, non-practice due to Board ordered suspension shall not be considered a period of non-practice. If Respondent stops practicing in Nevada for a total of five (5) years, Respondent's license shall be automatically revoked. If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of his or her good faith efforts to comply with this condition, and if Respondent is in compliance with all other probation conditions, the Board, in its sole discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply unless they have been modified by the Board via a petition for modification of probation.

RATIONALE: This provides the Board with an opportunity to monitor Respondents and determine if they can perform the functions and duties of his or her licensing category in a competent manner. It also prevents Respondents from merely "sitting out" the probation and avoiding the necessity of demonstrating competence and compliance with probation conditions.

(12) CONTINUANCE OF PROBATIONARY TERM/COMPLETION OF PROBATION - If, during the period of probation, an accusation and/or a petition to revoke probation or both has been filed against Respondent's license the probationary period shall automatically be extended and shall not expire until the accusation and/or the petition to revoke probation has been acted upon by the Board. Upon successful completion of probation, Respondent's license will be fully restored.

RATIONALE: The provision ensures that the Board will be able to continue monitoring the practice of licensees who are either out of compliance with his or her probation conditions or have allegedly committed further acts that constitute a violation of the Occupational Therapy Practice Act. This is necessary to protect the public from licensees who have already demonstrated a lack of compliance.

(13) NOTIFICATION - Prior to engaging in the practice of occupational therapy, the Respondent shall provide a true copy of the Disciplinary Order or Consent Decree to his or her employer. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall also apply to any change(s) in place of employment.

RATIONALE: The condition provides the Board with a mechanism for ensuring that the employer providing occupational therapy services is informed of the license status of the respondent so that, if necessary, the work environment can be structured to ensure the public's safety.

ADDITIONAL PROBATIONAL TERMS AND CONDITIONS

(14) SUSPENSION - Commencing from the effective date of this decision, Respondent shall be suspended from the practice of occupational therapy for a minimum period of (minimum of 14 days). Respondent shall not mislead patients regarding the reasons for suspension from practicing occupational therapy. During the suspension Respondent shall not practice occupational therapy directly or indirectly, including the supervision of occupational therapy assistants, aides or technicians. During the suspension period, all probation conditions are in full force and effect except those relating to the actual practice of occupational therapy.

RATIONALE: This provision is necessary for the protection of the public because in some cases the licensee needs to stop practicing and participate in either rehabilitation or remedial education before resuming practice. And, it is appropriate in cases where the serious nature of the misconduct warrants a period of suspension from practice.

(15) REMEDIAL / CONTINUING EDUCATION – Within (90 days) of the effective date of this decision, Respondent shall submit to the Board for its prior approval, an appropriate program of remedial education related to (*the cause of disciplinary action*) in an educational facility or program which must also to be approved by the Board. The exact number of hours and specific content of the program shall be determined by the Board or its designee. Respondent shall successfully complete the remedial education program and may be required to pass an examination administered by the Board or its designee related to the program's content. (*If appropriate, Respondent shall be restricted from the practice of {areas where a deficiency has been identified} until the remedial education program has been successfully completed.*) Respondent shall pay all costs of the remedial education program.

RATIONALE: In those instances where a licensee has demonstrated negligence or incompetence, or has been found to have performed work or attempting treatment beyond the scope of training or experience, the Board will impose a program of remedial education. This program shall specify the areas and hours of education remediation required, and may also dictate the institution(s) where the

education will be received. A remedial education program is usually required prior to allowing the licensee to return to the identified deficient area of practice, and requires prior approval by the Board. Continuing education courses used for renewal of licensure will not fulfill the remedial education requirement. This program is for occupational therapists and occupational therapy assistants who have demonstrated deficiencies in skill but do not constitute a present danger to patients in other areas of practice.

(16) SUPERVISED PRACTICE - Within 60 days of the effective date of this decision, Respondent shall submit to the Board, for its prior approval, the name and qualifications of one or more proposed supervisors and a plan for each such supervisor by which Respondent's practice would be supervised. Respondent shall not practice until receiving notification of Board approval of Respondent's choice of a supervisor and plan of supervision.

The plan of supervision shall be *(direct and require the physical presence of the supervising occupational therapist.) (general and not require the physical presence of the supervising occupational therapist during the time services are performed but does require an occasional random check of the work performed as well as quarterly monitoring visits at the office or place of practice)*. Additionally, the supervisor shall have full and random access to all patient records of Respondent. The supervisor may evaluate all aspects of Respondent's practice regardless of Respondent's areas of deficiencies. Each proposed supervisor shall be a Nevada licensed occupational therapist who shall submit written reports to the Board on a quarterly basis verifying that supervision has taken place as required and include an evaluation of Respondent's performance. It shall be Respondent's responsibility to assure that the required reports are filed in a timely manner. Each supervisor shall have been licensed in Nevada for at least five (5) years and not have ever been subject to any disciplinary action by the Board. The supervisor shall be independent, with no prior business or professional relationship with Respondent and the supervisor shall not be in a familial relationship with or be an employee, partner or associate of Respondent. If the supervisor terminates or is otherwise no longer available, Respondent shall not practice until a new supervisor has been approved by the Board. All costs of the supervision shall be borne by the Respondent.

RATIONALE: This condition allows the Board to monitor the competency of Respondent by use of a fellow practitioner. It is most appropriate in those cases involving incompetence, negligence, and sexual misconduct. The type of supervision needs to be clearly defined relative to the necessity for the presence of the supervisor. Direct supervision would require the physical presence of the supervisor during the time occupational therapy services are performed. General supervision does not require the physical presence of the supervising occupational therapist. The type of required supervision depends on the severity of the violation(s).

(17) RESTRICTED PRACTICE - Respondent shall not practice which includes consulting, evaluating and treating in *(area of noted deficiency) (shall not treat {male} {female} {minors} patients {without the presence of another party})*. Within 30 days from the effective date of this decision, Respondent shall submit to the Board, for prior approval, a plan to implement this restriction. Respondent shall submit proof satisfactory to the Board of compliance with this term of probation.

RATIONALE: The condition prevents the Respondent from engaging in the practice of occupational therapy in situations where there is no close supervision and/or where the respondent could have undue authority over others or access to controlled substances.

(18) RESTITUTION - Within *(30 to 90)* days of the effective date of this decision, Respondent shall make arrangements for restitution to *(patient or entity)* in the amount of *(dollar amount)*. (Insert who payment is to be made and when it is due. If a payment plan is imposed, insert specifics regarding payment plan.)

RATIONALE: Where there has been patient harm resulting from negligent or incompetent treatment or a determination has been made concerning fraudulent billing, restitution may be warranted. Careful scrutiny should be made to ensure that proper restitution is made to either the patient or any other applicable entity. Restitution may be made within a specific time frame or on a payment schedule. Restitution should cover those amounts that are a direct result of the actions of Respondent.

(19) COMMUNITY SERVICE - Within 60 days of the effective date of this decision, Respondent shall submit to the Board, for its prior approval, a community service program for the (*first year of probation or a specified period of probation*) in which Respondent shall provide volunteer services on a regular basis to a non-profit community or charitable facility or agency for at least (*number of hours per month/year for the first year or specified period of probation*). Such community service shall be (*practice or non-practice*) related. Community service required by this condition shall be performed in the State of Nevada. Community service performed prior to the effective date of the Decision shall not be accepted in fulfillment of this condition.

Prior to engaging in any community service Respondent shall provide a true copy of the (Decision or Decree) to the chief of staff, director, office manager, program manager, officer, or the chief executive officer at every community or non-profit organization where Respondent provides community service and shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall also apply to any change(s) in community service. All community services must be completed no later than one hundred and twenty (120) calendar days prior to the scheduled termination of probation.

RATIONALE: Community service is appropriate in those cases where the Respondent has violated the public's trust. If the violation relates to quality of care, the community service shall not be practice related.

(20) PSYCHOLOGICAL EVALUATION - Within 60 days of the effective date of this decision, and on a periodic basis thereafter as required by the Board or its designee, Respondent shall undergo a (forensic) psychological evaluation by a licensed psychiatrist or psychologist approved by the Board. The psychiatrist or psychologist shall have been licensed for a minimum of five years and shall not have been subject to discipline by a regulatory agency. The evaluator shall furnish a detailed written report to the Board regarding Respondent's judgment and ability to practice occupational therapy independently and safely and other information as the Board may require. The cost of the evaluation shall be paid by Respondent. Respondent shall execute a Release of Information form authorizing the evaluator to release all information to the Board. Respondent shall comply with all of the recommendations of the evaluator unless excused by the Board in its sole discretion. This evaluation shall be confidential by the Board and is not subject to discovery. Psychological evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement. **OPTION:** Respondent shall not engage in the practice of occupational therapy until notified by the Board in writing of its determination that Respondent is safe to practice occupational therapy independently and safely. The period of time that Respondent is not practicing shall not be counted toward completion of the term of probation. Respondent's failure to undergo and complete the psychological evaluation, recommended therapy or comply with any other recommendations by the evaluator is a violation of probation.

RATIONALE: This condition shall be applied, but not limited to, any licensee who may be affected by a psychological problem, who has committed an act of sexual misconduct or who has suffered a substantially related conviction. This evaluation may be ordered and the results evaluated prior to allowing practice by the Respondent.

(21) PSYCHOTHERAPY - Within (45 days) of the effective date of this decision, or within (45 days) of a determination that psychotherapy is required, Respondent shall submit a proposed therapist and plan of therapy to be approved by the Board. The cost of therapy shall be borne by Respondent. The plan of therapy shall include the nature of the treatment and its proposed duration. The psychotherapist shall agree to submit quarterly reports to the Board regarding the progress and participation of Respondent. The treatment program shall not be terminated except upon Board approval after submission of the results of the program by the psychotherapist. If there is a need for ongoing psychiatric psychological treatment, Respondent shall, within 30 days of the requirement notice, submit to the Board for its prior approval the name and qualifications of a psychotherapist psychiatrist licensed mental health professional of Respondent's choice. If the psychological evaluation recommends that Respondent seek treatment from a specific type of mental health professional (e.g. psychiatrist, psychologist, licensed clinical social worker or marriage and family therapist), Respondent shall only submit for consideration those who meet that recommendation. Respondent shall undergo and continue psychotherapy until further notice from the Board or its designee. Respondent shall have the treating psychotherapist mental health care professional submit quarterly status reports to the Board or its designee indicating whether the Respondent is capable of practicing occupational therapy safely.

RATIONALE: This condition should be imposed whenever there is evidence that the Respondent may have a psychological problem that may impact his or her being able to practice safely. If the Respondent is already in therapy this condition should be imposed to ensure that he or she continues to receive help.

(22) PHYSICAL EVALUATION - Within 45 days of the effective date of this decision, Respondent, at his or her expense, shall have a licensed physician and surgeon, who is approved by the Board before the assessment is performed, submit an assessment of the Respondent's physical condition and capability to perform the duties of an occupational therapist or occupational therapy assistant. If medically determined, a recommended treatment program will be instituted and followed by the Respondent with the physician providing written reports to the Board.

If Respondent is determined to be unable to practice occupational therapy safely with or without restrictions, the licensed physician and surgeon making this determination shall immediately notify the Board and Respondent by telephone, and the Board shall have prepared an accusation or petition to revoke probation. Respondent shall immediately cease practice and shall not resume practice until notified by the Board in writing. During this period of cessation of practice, Respondent shall not engage in any practice for which a license issued by the Board is required until the Board has notified Respondent that a medical determination permits Respondent to resume practice. This period of cessation of practice shall not apply to the reduction of this probationary time period. If the Respondent fails to have the above assessment submitted to the Board within the 45-day requirement, Respondent's license is immediately suspended and he or she shall immediately cease practice and shall not resume practice until notified by the Board in writing. This period of suspension of practice shall not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted. Physical evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement. **OPTION:** Respondent shall not engage in the practice of occupational therapy until notified by the Board in writing of its determination that Respondent is safe to practice occupational therapy independently and safely. The period of time that Respondent is not practicing shall not be counted toward completion of the term of probation.

RATIONALE: This condition shall be applied, but not limited to, any licensee whose ability to practice safely may be affected by a physical condition. This evaluation may be ordered and the results evaluated prior to allowing practice by the Respondent.

(23) BIOLOGICAL TESTING - Respondent shall submit to and pay for any random biological fluid or hair sample, breath alcohol or any other mode of testing required by the Board. Respondent shall have the test performed by an approved laboratory within twelve (12) hours upon request by the Board, or sooner if so requested by the Board and the Respondent shall ensure that the test results are sent immediately to the Board. Failure to comply within the time specified shall be considered an admission of a positive drug screen and constitutes a violation of probation. If a test results in a determination that the urine admission was too diluted for testing, the result shall be considered an admission of a positive urine screen and constitutes a violation of probation. If an “out of range result” is obtained, the Board may require Respondent to immediately undergo a physical examination and to complete laboratory or diagnostic test to determine if any underlying physical condition has contributed to the diluted result and to cease practice. Any such examination or laboratory and testing costs shall be paid by respondent. An “out of range result” is one in which, based on scientific principles, indicates the Respondent attempted to alter the test results in order to either render the test invalid or obtain a negative result when a positive result should have been the outcome. If it is determined that Respondent altered the test results, the result shall be considered an admission of a positive urine screen and constitutes a violation of probation and Respondent must cease practicing. Respondent shall not resume practice until notified by the board.

RATIONALE: This probation condition will allow the Board to monitor the Respondent in order to ascertain if he/she is substance and/or chemical free. It is to be required when the Respondent has violated any alcohol and/or substance abuse prohibitions.

(24) ABSTAIN FROM USE OF ALCOHOL, CONTROLLED SUBSTANCES AND DANGEROUS DRUGS - Respondent shall abstain completely from the possession, injection, or consumption of any route, including inhalation, of all psychotropic (mood altering) drugs, including alcohol, and including controlled substances, dangerous drug and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed by a physician and surgeon, dentist, or nurse practitioner for a bona fide illness or condition. Within fifteen (15) calendar days of receiving any lawful prescription medications, Respondent shall notify the Board in writing of the following: prescriber’s name, address, and telephone number; medication name and strength, issuing pharmacy name, address, and telephone number, and specific medical purpose for medication. If Respondent has a positive drug screen for any substance not legally authorized, and the Board files a petition to revoke probation or an accusation, Respondent shall be automatically suspended from practice pending the final decision on the petition to revoke probation or accusation. This period of suspension will not apply to the reduction of this probationary period.

RATIONALE: Abstinence from mood altering substances (alcohol/drugs) is necessary for compliance with the Board’s Probation Program and to ensure successful rehabilitation. Abstinence from any psychotropic drug is required to prevent the substitution of one addicting substance with another.

(25) ETHICS COURSE - Within 30 days of the effective date of this decision, Respondent shall submit for prior Board approval a course in ethics that will be completed within the first year of probation. Units obtained for an approved course in ethics shall not be used for continuing education units required for renewal of licensure. An ethics course taken after the acts that gave rise to the charges in the accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board, be accepted towards the fulfillment of this condition.

RATIONALE: In those cases involving fraud, false advertising, excessive billing, or negligence this condition of probation will be imposed and may also be imposed in other cases if applicable.

(26) SOLO OR INDEPENDENT PRACTICE - Respondent is prohibited from engaging in the solo or independent practice of occupational therapy.

RATIONALE: Like similar conditions, this condition prevents the respondent from engaging as a sole practitioner in the practice of occupational therapy in situations where there is no close supervision and/or where the respondent could have undue authority over others and/or access to controlled substances.

(27) MEETINGS AND INTERVIEWS – Respondent, upon request of the BOARD, shall appear in person for meetings and shall be available by telephone for interviews as directed by the Board.

RATIONALE: This provides a means for the Board representatives to make periodic assessments of the Respondent, to determine compliance with probation conditions and to give guidance and directions to licensees on probation.



Joe Lombardo
Governor

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BOARD OF OCCUPATIONAL THERAPY

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Heather Hartley
Executive Director

ADVISORY NOTICE

Occupational Therapy Scope of Practice Dry Needling

The provision of Dry Needling IS NOT authorized as being within the Scope of Practice of Occupational Therapy in Nevada.

The Nevada Legislative Counsel Bureau, in response to an inquiry by Senator Parks, regarding whether dry needling was within the scope of practice of physical therapy, issued an opinion regarding dry needling in the State of Nevada. Pertinent sections of that opinion reads in part:

“After thoroughly examining all the relevant statutory provisions in NRS Title 54, and after interpreting those statutory provisions in a manner that best promotes the protective public policy of NRS Title 54 and best carries out the intent of the Legislature to safeguard the public from potential societal harms, we believe that the practice of dry needling is a healing art encompassed within the scope of practice of: (1) physicians practicing medicine under NRS Chapter 630; (2) osteopathic physicians practicing osteopathic medicine under NRS Chapter 633; (3) homeopathic physicians practicing neural therapy under NRS Chapter 630A; and (4) doctors of Oriental medicine practicing acupuncture under NRS Chapter 634A.”

“In order for licensed physical therapists to practice dry needling in Nevada, it is the opinion of this office that the Legislature would need to change Nevada's existing laws by enacting clear statutory authority allowing licensed physical therapists to practice dry needling in Nevada.”

At the 2019 Legislative Session, the Nevada Legislature passed SB 186 which created clear statutory authority for Physical Therapists and Athletic Trainers to perform dry needling with the appropriate training as established through regulation.

Occupational Therapists are NOT authorized to perform dry needling until such time as statutory authority is granted by the Nevada Legislature.



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Productivity and Ethical Considerations Best Practices Guidelines

Ethical Service Delivery

Decisions regarding client/patient care should be made by clinicians in accordance with their clinical judgement. Clinicians are ethically obligated to deliver services they believe are medically necessary and in the client/patient's best interest, based upon their independent clinical reasoning and judgment as well as objective data.

- Deliver services that are medically necessary and in the best interests of the patient/client
- Clinical judgment and expertise is critical to delivery of patient/client care
- Employer internal policies or practices may violate law, standards and/or ethics
- Utilize national guidelines and resources such as your local and national associations

Know the Rules and Regulations

Therapists must use their clinical judgment to provide clients/patients with medically necessary services and to submit proper claims for payment. Practitioners must be aware of applicable policies and regulations to understand federal and payer requirements.

- State licensure laws & regulations www.nvot.org
- Federal health care laws regarding therapy services: ACA, Medicare
- Third-party payer rules; ask your employer - if in doubt use Medicare Model

Evaluation and Treatment

A critical component of the therapy process is to identify, clarify and plan to meet client/patient needs.

- Comprehensive and clear evaluations are the cornerstone for services
- Determine necessary/appropriate treatment and services for patient's/client's condition including frequency and duration under accepted standards of practice
- Utilize evidence based practices, standardized assessment tools, when available, and include discharge planning

Documentation

The client/patient's treatment record is the responsibility of the practitioner who provides the care.

- Proper documentation supports the practitioner's services and reflects actual treatment
- Records must comply with federal and state regulations, be accurate, corrections noted, and be prepared by the treating clinician
- Signature denotes the accuracy of the document
- Establishes connection between services and goals

- Documentation must demonstrate skilled therapeutic services and billing should be consistent with documentation
- Advocate for sufficient non-clinical time for timely completion of documentation

Clinical Integrity vs. Employer Policies

Respect for the therapist's clinical judgement and expertise is critical to achieving optimum client/patient care. Overriding or ignoring clinical judgement by implementing administrative mandates and policies to maximize employer's financial interests or productivity goals may not support the clinical integrity of services provided.

It is the practitioners' ethical duty to ensure services provided are in accordance with the treatment plan and utilize evidence-based practices to achieve effective outcomes

- Unacceptable Employer Policies and Practices
 - Putting clients on caseload who do not meet criteria for services
 - Coercing practitioners to continue treatment for clients who no longer need skilled therapy
 - Inappropriate requirements regarding treatment frequency or duration of services
 - Initiating a treatment without patient consent
 - Classifying non-treatment time as treatment for billing purposes
 - Limiting evaluation times based upon payment policy
 - Intentionally coding services inappropriately, based upon policy and/or reimbursement levels
 - Changing coding without assent of treating clinician
 - Falsifying or changing documentation
 - Setting unreasonable productivity expectations for the practice setting

Taking Action – Questionable Practices and Policies

It is the practitioner's ethical obligation to take action when faced with questionable practices and policies.

- If you observe a questionable practice engaged in by a colleague:
 - Discuss your concerns with the colleague - it may be unintentional and easily corrected
 - Discuss your concerns with your supervisor
- When faced with a questionable policy or practice dictated by your employer:
 - Discuss the policy or practice with your supervisor
 - Contact your facility / corporate billing compliance officer
 - Consider the impact of your actions / consequences of compliance
 - Seek knowledgeable legal counsel if appropriate
 - Find other employment
- In all cases of questionable practices that cannot be resolved through informal means:
 - Contact your state licensing board: board@nvot.org
 - Contact your state association
 - Report to your state healthcare regulatory agency, Medicare, Medicaid and/or Insurance
 - Report information to federal OIG or CMS, as appropriate

Resources

American Occupational Therapy Association

AOTA More Detailed Medicare Information:

<http://www.aota.org/en/Advocacy-Policy/Federal-RegAffairs/Pay/Medicare.aspx>

AOTA Clinical & Documentation Questions: practice@aota.org

AOTA Medicare & Reimbursement Questions: regulatory@aota.org

Medicare and Medicaid Resources

Medicare Benefits Policy Manual:

<http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Internet-Only-Manuals-IOMs-Items/CMS012673.html>

Nevada Medicaid Services Manual – Therapy:

<http://dhcfp.nv.gov/Resources/AdminSupport/Manuals/MSM/MSM1700/>

Other Resources

Nevada Division of Insurance:

<http://doi.nv.gov/Consumers/>

Medicare Fraud Reporting Information:

<http://www.stopmedicarefraud.gov/>

OIG Fraud Reporting Hotline:

800-HHS-TIPS (1-800-447-8477) or

<https://forms.oig.hhs.gov/hotlineoperations/>

Nevada Board of Occupational Therapy

775-746-4101 or Contact Us at <http://nvot.org>



Joe Lombardo
Governor

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Challenges in School Based Practice

The Public School systems are facing budget shortfalls and challenging economic conditions which can lead to lower staffing levels and larger caseloads. When faced with providing adequate OT services; administrators may be considering alternatives measures to providing OT activities. The following questions and answers provide guidelines to the OT practitioner in school based practice.

Can an OTA attend an IEP without an OT present and can she sign the IEP? Does she sign that she is representing OT or OTA/L?

The OTA can attend an IEP with the OT, and sign using OTA/L. Technically an OTA can attend an IEP without the OT, but at that point the OTA risks being out of compliance with their license in the area of treatment planning. Some school districts are beginning to document use of the IEP as the treatment plan or plan of care. The IEP meeting is a team planning meeting, where goals are developed and services are determined at the meeting. (Treatment planning). Prior to the IEP, most OT's meet with the teacher of record to discuss the teacher's proposed educational goals. Often during this discussion, the OT formulates a recommendation or proposal of OT intervention methods, which includes service type, duration, and location. As the IEP meeting is based on team agreement on individualized educational programming, plans are often adjusted, added or deleted. There is no reason to place the OTA in a potentially liable situation by attending the meeting without the OT. Best practice is that the team would attend IEP's together, but it is difficult to support with large caseloads while maintaining intervention schedules.

Can an OTA do the present level of performance as long as it is not an initial evaluation or a 3 year re-evaluation?

(NAC 640A.265) **NO**—The OTA is always able to provide/contribute to present levels with the OT. The OT then takes this information, combines it with their informal assessment/present levels/interventions and interprets this information for placement in present levels. It is up to the OT and teacher of record to determine what information goes into the IEP document. Best practice suggests that all team members information/present levels are blended together, rather than each discipline/team member information listed separately. The OT is responsible for linking proposed occupational therapy support to educational goals/modifications and intervention methods.

Can an OTA carry her own caseload as long as she is supervised by an OT for 1 hour for every 40 hours worked?

(NAC 640A.265 and NAC 640A.250) **NO**—An OTA is one member of the team, and does not have a caseload. The OT has the caseload and is responsible for all the students that are shared by the OT/OTA team. The OTA can be assigned to work with any student on that OT's caseload, but under the direction and treatment plan written by the OT. Best practice caseloads provide equal access to all students on the OT's caseload, which allows the OT to know each student and assign the OTA as needed to cover any student on the caseload. Teams may choose to rotate weekly, biweekly, or monthly so that treatment interventions are evidenced based (data) and adjusted. OTA assignments to specific students are often based on IEP dates, referrals, re-evaluation schedules, illness or student needs as determined by the OT.

Supervision of 1.0 hour per 40.0 hours worked — This is the minimum amount of time required for supervision, and more is expected with high caseloads and involved students. Teams may choose to use two documentation methods for supervision, the required log which is more general and one that is student specific. Documentation that supports OT/OTA supervision on a specific student is up to the team, and is essential in cases which are moving toward a due process hearing. These notes might be in specific student files, not listed on the general log, so that student information is confidential. Many OTs choose to remove the OTA from situations headed toward/in due process.

Can an OTA determine the frequency of service?

(NAC 640A.265) **NO** — Determining intervention frequency is linked to OT related services support of educational goals and treatment planning. The OTA is expected to provide the OT with information from their interventions. The OT is responsible for assessment, interpretation of intervention session data, treatment plans, modification of interventions in response to evidenced based practices, and present levels. The OT proposes intervention methods (style, frequency and location) at the IEP and the team discusses the proposal until a team agreement is reached.

Can an OTA complete the goal page of the IEP?

(NAC 640A.265) **NO**—Working with goal information involves interpretation of information and treatment planning. The OT meets with the teacher of record and discusses educational goals throughout the year. OT information is blended by the teacher into her data to determine progress on educational goals. IDEA requires occupational therapy as a related service to the educational program, which supports access to educational programs. Most districts have moved away from earlier models (1980-1990's) and no longer use isolated goals. Occupational therapy related services support educational goals which are chosen and linked by the teacher to state curriculum standards.



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Language Access Plan

I. Purpose and Authority

The State of Nevada, through Nevada Revised Statute Chapter 232 and federal guidance on Title VI, address the barriers persons with limited English proficiency face in accessing governmental programs and services.

Persons with Limited English Proficiency (LEP) require and deserve meaningful, timely access to government services in their preferred language. Moreover, it is the responsibility of government to provide that access:

State and local agencies and entities that receive public money have an obligation to provide meaningful, timely access for persons with limited English proficiency to the programs and services of those agencies and entities.

The Board of Occupational Therapy is committed to complying with NRS 232.0081 and Title VI of the Civil Rights Act of 1964, 2 C.S. § 561 et seq. (Act 172 of 2006) to ensure meaningful access to State services and programs for individuals with limited English proficiency.

The purpose of this document is to establish an effective plan and protocol for employees of the Board of Occupational Therapy to follow when providing services to, or interacting with, individuals who have limited English proficiency. Following this plan and protocol is essential to the success of our mission to protect the public health, safety and welfare by ensuring that only competent occupational therapy practitioners are licensed in the state.

II. General Policy

The Board of Occupational Therapy recognizes that the population eligible to receive services may include limited English proficiency individuals. It is the policy of the Board to ensure meaningful access to LEP individuals. The Board will adopt the following policies and procedures to ensure that LEP individuals can gain equal access to the services the Board of Occupational Therapy provides and regulates.

It is Nevada's policy to grant access to services or programs to every person regardless of their ability to speak, understand, read, or write in English. The Board of Occupational Therapy intends to take all reasonable steps to provide LEP individuals with meaningful access to its services and programs. The Board seeks to reduce barriers by increasing its capacity to deliver services and benefits to people in their preferred languages.

The Board endorses the following policies:

- The Board of Occupational Therapy is committed to equity and will take all reasonable steps to provide limited English proficient (LEP) individuals with meaningful access to all its services, programs, and activities.
- The Board, rather than the LEP individual, bears the responsibility for providing appropriate language services, regardless of the LEP individual's preferred language, at no cost to the LEP individual.
- Staff at the initial points of contact have the specific duty to identify and record language needs.
- Use of informal interpreters such as family, friends of the person seeking service, or other customers is not allowed. Minor children are prohibited from acting as interpreters.
- Staff may not suggest or require that an LEP individual provide an interpreter in order to receive Board services.

Board of Occupational Therapy Language Access Coordinator:

Executive Director

775-746-4101

board@nvot.org

III. Profile of Clients of the Board of Occupational Therapy

Our preliminary assessment is that the Board has a limited LEP constituency. Our primary "service" is licensing and regulating occupational therapists and occupational therapy assistants. All applicants must meet eligibility requirements including national certification in occupational therapy.

The Board currently collects specific demographic information from individuals applying for a license; however demographic information does not include LEP status, whether they identify as indigenous or as a refugee.

The Board conducted a demographic survey to include questions about applicant's and licensees preferred language(s) to better assess language access needs and to determine whether an individual identifies as indigenous or as a refugee.

A survey of individuals who received licensing services from the Board resulted in 38 responses, a 2% response rate. Three individuals indicated speaking multiple languages. A summary of the survey responses found:

Demographic	Positive Responses
Limited English Proficient	0
Identified as Indigenous	0
Identified as a Refugee	0

Other Languages Spoken					
Spanish	4	Filipino	2	Krio	1
Mandarin	3	Hebrew	1	Taiwanese	1
Cantonese	2	Thai	1		

The Board is committed to tracking the languages preferred for communication among the individuals with limited English proficiency whom the Board serves, so that the Board can better provide meaningful, timely access to the Board's services without regard to any language impediments.

The preferred language of the public and individual receiving services from the Board is US English. The most common methods for the public to access services are through the Board's website and email communication.

IV. Language Access Services and Procedures

The Board does not have staff who can provide language assistance services.

The Board does not have any known LEP applicants or licensees. Currently, no applicants or licensees identify as indigenous or as a refugee. The Board has never received a request for translation or American Sign Language Services for LEP applicants, licensees or the public.

Language access needs will be addressed in the following manner:

The Board will utilize one of the active statewide contracts for translation and interpreter services offered by the state, which can be found here:

https://purchasing.nv.gov/Contracts/Documents/Translation_Interpretation/

Providing Notice of Language Assistance Services

All staff will be made aware of appropriate language assistance services. Those seeking services may also request language assistance by contacting the Board by email which is

posted on the Board's website.

V. Implementing The Language Access Services

In order to fulfill the goals of this Plan, the Language Access Coordinator will provide staff with the necessary training to ensure that staff are familiar with the Language Access Plan and its related policies. This training will include:

- How to respond to LEP individuals via phone, writing, or in person.
- How to seek assistance with internal or state sanctioned language access resources.
- How to document the mode of communication and preferred language of an LEP individual to better understand the needs of those accessing services and ensure that equitable access is available throughout the duration of their interactions with the Board.
- How to report these interactions to the Language Access Coordinator.

In addition to staff training, the Board will use the internal and state sanctioned resources to provide information in languages other than English.

VI. Evaluation of and Recommendations for the Language Access Plan

The Board is committed to providing our limited English proficient individuals full access to our services and is committed to monitoring the policies and procedures stated above to ensure that limited English proficiency Nevadans are receiving equitable access to Board services.

The Language Access Coordinator will continue to develop and monitor this plan, and update it biennially based on applicant data and language accommodation requests documented by staff and demographic data obtained through surveys. We will also track any costs we may incur by using external, state sanctioned resources.

The Board is exempt from the State Budget Act; all expenses are paid from fees received from licensed individuals.

Suggested Legislative Amendments:

Independent regulatory Boards that do not have staff capacity to perform language access roles could benefit from a state assigned liaison that works for the Governor's Office of New Americans to provide those duties for the Boards on an as needed basis, similar to an assigned Deputy Attorney General (DAG).