

**ADOPTED REGULATION OF THE
BOARD OF OCCUPATIONAL THERAPY**

LCB File No. R017-14

Effective October 24, 2014

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

AUTHORITY: §§1, 2, 5, 7 and 9-11, NRS 640A.110; §§3 and 8, NRS 640A.110 and 640A.230; §4, NRS 640A.110 and 640A.180; §6, NRS 640A.110 and 640A.190; §12, 640A.110 and 640A.200.

A REGULATION relating to occupational therapy; defining the term “name tag” for the purpose of complying with certain laws requiring a health care professional to communicate certain information; establishing the amounts of certain administrative fines; revising certain provisions relating to the practice of occupational therapy; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Board of Occupational Therapy to adopt regulations governing the licensing and practice of occupational therapists. (NRS 640A.110) Existing law also requires a health care professional to wear, during the course of providing health care services other than sterile procedures in a health care facility, a name tag which indicates his or her specific licensure or certification. (NRS 629.076) **Section 2** of this regulation defines the term “name tag” for the purposes of compliance with NRS 629.076 for persons engaged in the practice of occupational therapy and prescribes the information which must be displayed on the name tag.

Section 3 of this regulation prescribes the amount of an administrative fine which may be assessed by the Board for practicing under an expired license. **Section 3** additionally provides circumstances under which the Board may waive the fine.

Section 4 of this regulation provides that the Board will not accept an application for the renewal of a license if the application is submitted more than 30 days after the expiration date of the license.

Section 8 of this regulation authorizes an occupational therapy assistant or provisional licensee to assist a supervising occupational therapist in delegating duties to an occupational therapy aide or technician.

Section 9 of this regulation provides that a licensed occupational therapist or occupational therapy assistant shall directly supervise the work of any person who assists the occupational therapist or occupational therapy assistant as an occupational therapy aide or technician.

Section 10 of this regulation revises provisions governing the acceptable contents of an advertisement by a licensee. **Section 12** of this regulation provides that advertising deceptive or misleading information relating to the practice of occupational therapy constitutes unprofessional conduct.

Section 11 of this regulation revises provisions relating to complaints filed with the Board.

Section 6 of this regulation removes the fees charged by the Board for the change of a name on a license and the provision of a duplicate license or license card.

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

Sec. 2. 1. *For the purposes of complying with paragraph (c) of subsection 1 of NRS 629.076, a licensee shall wear a name tag which states “licensed occupational therapist” or “licensed occupational therapy assistant,” as applicable.*

2. As used in this section, “name tag” means a temporary or permanent identification tag, label, badge or other device that is displayed on the person of a licensee for the purpose of identifying the licensee’s name and professional licensure or certification. The term includes, without limitation:

(a) A placard affixed to clothing;

(b) A disposable name badge; and

(c) Embroidery on a uniform.

Sec. 3. 1. *Except as otherwise provided by subsection 2, the Board will assess against a person practicing occupational therapy whose license has expired an administrative fine of:*

(a) Not less than \$50 if the period of expiration of the license is 30 days or less.

(b) Not less than \$200 and not more than \$5,000 if the period of expiration of the license is more than 30 days.

2. The Board may waive an administrative fine assessed pursuant to subsection 1:

(a) For the first offense.

(b) If the period of expiration of the license is 30 days or less.

(c) Upon a finding of good cause by the Board. A person seeking waiver of an administrative fine on the grounds prescribed by this paragraph shall submit a written request to the Board which must include proof satisfactory to the Board that good cause exists for the Board to waive the administrative fine. As used in this paragraph, "good cause" includes, without limitation, circumstances under which a person suffers from an illness or disability, suffers an injury or experiences a family hardship.

Sec. 4. NAC 640A.030 is hereby amended to read as follows:

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

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

3. An application submitted to the Board must be notarized if so required.

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

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

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

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

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

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

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

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

(1) Any such license presently held; and

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

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

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

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

Sec. 5. NAC 640A.120 is hereby amended to read as follows:

640A.120 ~~{1.}~~ If an occupational therapist or an occupational therapy assistant changes his or her name after his or her license is issued, he or she must submit, within 30 days after the change, proof satisfactory to the Board that his or her name was legally changed. Proof consists of a copy of a marriage certificate or court decree.

~~{2. The Board will issue a new license in the case of a name change upon payment of the appropriate fee.~~

~~—3.— An occupational therapist or occupational therapy assistant who has lost his or her license may request in writing from the Board a duplicate license. The Board will issue a duplicate license upon payment of the appropriate fee.}~~

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

640A.160 The *Board will charge and collect the* following fees : ~~{are established:}~~

1. For an occupational therapist:

- (a) Initial active license \$250
- (b) Renewal of an active license 175
- (c) A temporary or provisional license..... 150
- (d) Renewal of a temporary or provisional license 100
- (e) Convert a temporary or provisional license to an active license 100
- (f) Reinstatement of an expired license..... 200
- (g) Renewal of an inactive license 100
- (h) Convert an inactive license to an active license 75

2. For an occupational therapy assistant:

- (a) Initial active license \$175
- (b) Renewal of an active license 125

(c) A temporary or provisional license.....	100
(d) Renewal of a temporary or provisional license	75
(e) Convert a temporary or provisional license to an active license	75
(f) Reinstatement of an expired license.....	125
(g) Renewal of an inactive license	75
(h) Convert an inactive license to an active license	50
3. General:	
(a) Change of name on a license	\$50
(b) Duplicate of a lost license or license card	50
(e) Processing of an initial license <i>application</i>	\$ 150
(d) (b) Late fee for renewal of a license	125
(e) (c) Verification of a license.....	25
(f) (d) Returned check processing	25

Sec. 7. NAC 640A.205 is hereby amended to read as follows:

640A.205 1. The Board hereby adopts by reference:

(a) The *Occupational Therapy Code of Ethics and Ethics Standards* approved by the representative assembly of the American Occupational Therapy Association or its successor organization; and

(b) The *Standards of Practice for Occupational Therapy* approved by the representative assembly of the American Occupational Therapy Association or its successor organization.

2. A copy of the *Occupational Therapy Code of Ethics and Ethics Standards* or the *Standards of Practice for Occupational Therapy* may be obtained, free of charge, from the Board by written request.

Sec. 8. NAC 640A.250 is hereby amended to read as follows:

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

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

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

- (1) Clinical observation of the occupational therapy assistant or provisional licensee; or
- (2) Direct communication with the occupational therapy assistant or provisional licensee.

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

(I) Direct or joint treatment of a patient;

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

(III) Conversation, in person or by telephone;

(IV) Exchange of written comments;

(V) Review of patient records; or

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

(c) Establish the caseload of the occupational therapy assistant or provisional licensee based on the competency of the occupational therapy assistant or provisional licensee as determined by the supervising occupational therapist.

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

(1) Preparation of a separate progress note; or

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

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

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

(1) Daily or weekly treatment or intervention schedules;

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

(3) Patient records.

(b) Ensure that ~~each~~ *the* record regarding a patient treated by the occupational therapy assistant or provisional licensee is signed, dated and reviewed at least monthly by the occupational therapy assistant or provisional licensee and the supervising occupational therapist.

In reviewing the record, the occupational therapist and the occupational therapy assistant or provisional licensee shall verify, without limitation:

(1) The accuracy of the record; and

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

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

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

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

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

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

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

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

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

Sec. 9. NAC 640A.275 is hereby amended to read as follows:

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

2. As used in ~~NRS 640A.230, the Board interprets~~ *this section*, the term “directly supervise” ~~{to mean supervision of}~~ *means to supervise* an occupational therapy aide or technician by ~~{a licensed occupational therapist who:~~

~~—1. Is}~~ :

(a) Being physically present on the premises at all times when the aide or technician is working with patients;

~~{2. Provides}~~

(b) Providing personal instruction to the aide or technician on a regular basis;

~~{3.}~~ *(c)* Personally ~~{evaluates}~~ *evaluating* the work of the aide or technician on a regular basis; and

~~{4. Sets}~~

(d) Setting forth detailed statements of the duties and responsibilities of the aide or technician.

Sec. 10. NAC 640A.310 is hereby amended to read as follows:

640A.310 A licensee shall not advertise treatment by the use of occupational therapy or equipment used in the practice of occupational therapy in such a manner that the advertising:

1. ~~{Contains a testimonial or endorsement by another person;~~
- ~~—2.}~~ Implies that the occupational therapist has skill which is superior to that of another occupational therapist;

~~13.1~~ 2. Holds the occupational therapist out as a specialist unless the licensee is certified as a specialist by an organization recognized by the Board;

~~14.1~~ 3. Makes any false claim about the efficacy or value of the treatment the licensee administers; or

~~15.1~~ 4. Is false, deceptive or misleading in regard to the *services to be provided, the* fee which is charged or the terms of any credit for the treatment administered.

Sec. 11. NAC 640A.340 is hereby amended to read as follows:

640A.340 1. Any person who believes that another person licensed by the Board has violated a provision of this chapter or chapter 640A of NRS may file a complaint with the Board on a form provided by the Board.

2. The Board may, on its own, initiate a complaint against a person licensed by the Board.

3. A complaint must, without limitation:

(a) Identify one or more grounds for disciplinary action; *and*

(b) Contain a statement of facts in sufficient detail to enable the Board to understand the allegations. ~~and~~

~~—(c) Be signed by the person making the complaint.—~~

4. The Executive Director of the Board, in consultation with legal counsel, shall review each complaint and decide if the complaint merits an investigation.

5. The Executive Director of the Board shall bring before the Board any complaint found to have merit.

6. For any proceedings regarding a complaint filed against an occupational therapy assistant, the Board may require that the occupational therapy assistant be accompanied by any

occupational therapist who signed, dated or reviewed a record regarding a patient related to the complaint.

Sec. 12. NAC 640A.350 is hereby amended to read as follows:

640A.350 In addition to those acts specified in subsection 4 of NRS 640A.200, the following acts, among others, constitute “unprofessional conduct”:

1. Engaging in the practice of occupational therapy when unable to do so with reasonable skill and safety to patients because of the licensee’s use of alcohol or any controlled substance, or because of any mental or physical condition or illness suffered by the licensee;
2. Being guilty of negligence in the performance of occupational therapy;
3. Allowing another person to use the license issued to the licensee;
4. Failing to report or otherwise concealing information related to a violation of this chapter or NRS 640A.200 which could result in harm to the public health and welfare;
5. Intentionally making or filing a false or misleading report;
6. Failing to file a report which is required by law or a third person or intentionally obstructing or attempting to obstruct another person from filing such a report;
7. Intentionally harassing, abusing or intimidating a patient, employer, employee, colleague or other person, either physically or verbally, including, ~~but not limited to,~~ *without limitation*, sexual harassment, abuse or intimidation;
8. Failing to notify the Board of disciplinary action imposed upon the licensee or applicant for licensure by a regulatory authority in another jurisdiction in which the licensee or applicant currently holds or held a license;
9. Divulging, without the consent of the patient, information gained within the context of the professional relationship with the patient, unless otherwise required by law;

10. Failing to obtain the informed consent of a patient before engaging in scientific research involving the patient;
11. Violating a provision of the *Occupational Therapy Code of Ethics and Ethics Standards* or the *Standards of Practice for Occupational Therapy*, adopted by reference in NAC 640A.205;
12. Referring or appearing to refer a patient to a third person to receive a fee or other consideration from the third person;
13. Recommending or prescribing therapeutic devices or modalities sold by a third person to receive a fee or other consideration from the third person;
14. Advertising in a manner that tends to deceive or mislead the public ~~†~~ *or advertising deceptive or misleading information;*
15. Making false statements, providing false information or omitting pertinent information in connection with an application for licensure or renewal of a license;
16. Misrepresenting or falsifying credentials, including, ~~†but not limited to,†~~ *without limitation*, those relating to education, training, experience and areas of competency;
17. Practicing or offering to practice beyond the scope authorized by law; or
18. Performing professional services which the occupational therapist knows he or she is not competent to perform.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS
AS REQUIRED BY NRS 233B.066**

INFORMATIONAL STATEMENT

LCB FILE R017-14

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 640A.

1. A clear and concise explanation of the need for the adopted regulation.

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

The purpose of the proposed regulation is to provide clarity for the public, individuals and licensees through regulations regarding the term “name tag” for the purpose of complying with certain laws requiring a health care professional to communicate certain information; establishing the amounts of certain administrative fines for practice with an expired license; revising provisions relating to renewal of a license; eliminating certain fees; and including provisions relating to occupational therapy aids and technicians. The proposed regulation also clarifies language and provides for other matters properly relating thereto.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

Copies of the proposed regulation, notice of workshop and notice of intent to act upon the regulation were sent by e-mail and U.S. mail to persons who were known to have an interest in occupational therapy as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Board of Occupational Therapy, www.nvot.org, mailed to all county libraries in Nevada and posted at the following locations:

Board of Occupational Therapy, Administrative Office
1595 Robb Drive, Suite 1, Reno, Nevada 89523
Office of the Attorney General, 100 North Carson Street, Carson City, Nevada 89701
Office of the Attorney General, 5420 Kietzke Lane, Ste 202, Reno, Nevada 89511
Office of the Attorney General, Grant Sawyer State Office Building,
555 E. Washington Avenue #3900, Las Vegas, Nevada 89101
Washoe County Court House, 75 Court Street, Reno, Nevada 89520
Washoe County Clerk, 1001 E. 9th St. Bldg A, P.O. Box 30083, Reno, Nevada 89502

A Workshop was held to solicit comments on the proposed regulations on February 1, 2014. There were eight (8) individuals from the public in attendance at the workshop, and three (3) written comments were received. Thereafter, on or about May 1, 2014, a Notice of Intent to Act Upon Regulations was issued. A Public Hearing was held on June 14, 2014; there were no additional comments received orally or in writing.

A copy of this summary of the public response to the adopted regulations may be obtain from the Board of Occupational Therapy, P.O. Box 34779, Reno, Nevada 89533-4779, 775-746-4101, or email to board@nvot.org .

3. The number of persons who:

(a) Attended each workshop:	Las Vegas, February 1, 2014	8
(b) Attended public hearing:	Reno, June 14, 2014	2
(c) Testified at hearing:	June 14, 2014	0
(d) Submitted written comments:		0

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:

(a) Name;	Paula Berkley
(b) Telephone number;	775-323-7430
(c) Business address;	908 Nixon Ave, Reno, NV 89502
(d) Business telephone number;	775-323-7430
(e) Electronic mail address;	paulaberkley@gmail.com
(f) Name of entity or organization represented.	Board of Occupational Therapy

(a) Name;	Crystal Hand, Occupational Therapist
(b) Telephone number;	702-927-0847
(c) Business address;	Not provided
(d) Business telephone number;	Not provided
(e) Electronic mail address;	Not provided
(f) Name of entity or organization represented.	Self

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as they were solicited from the public. No comments were received from businesses.

A copy of this summary of the public response to the adopted regulations may be obtain from the Board of Occupational Therapy, P.O. Box 34779, Reno, Nevada 89533-4779, 775-746-4101, or email to board@nvot.org.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The Board of Occupational Therapy adopted the regulation without change on June 14, 2014. Comments received at the public workshop where considered and incorporated in the revised

proposed regulations. No additional public comments were provided or submitted at the public hearing; no changes were requested.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects; and**
- (b) Both immediate and long-term effects.**

(a) Both adverse and beneficial effects

There will be no adverse economic effect of these adopted regulations on the businesses which it is to regulate (occupational therapists and occupational therapy assistants) or the public. The adopted regulations will benefit the occupational therapy practitioners and the public by providing clarifications to the regulations.

(b) Both immediate and long-term effects.

Immediate effect will be improved administration through clarification of existing law and regulatory requirements. Long-term effect will be clarity and consistency in regulation and licensing of occupational therapy practitioners in Nevada.

8. The estimated cost to the agency for enforcement of the adopted regulations.

There are no additional costs involved in the enforcement of these adopted regulations.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The Board of Occupational Therapy is not aware of any similar regulations of other state or government agencies that the adopted regulations overlap or duplicate.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

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

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The regulation does not provide for any new or increased fees.