

## **AGENDA ITEM 9**

### **PRESENTATION BY HEIDI LINCER, PH.D., CHIEF, OFFICE OF PROFESSIONAL EXAMINATION SERVICES (OPES), DEPARTMENT OF CONSUMER AFFAIRS, ON COMPLETING A PRACTICE ANALYSIS AND OCCUPATIONAL ANALYSIS, AND THE ESTIMATED SCHEDULE AND COST(S).**

The following are attached for review:

- PowerPoint of presentation to be provided at meeting
- Occupational analysis overview
- Review of National Licensure Examinations
- BPC Section 139
- DCA Policy regarding licensure examination validation

# OFFICE OF PROFESSIONAL EXAMINATION SERVICES OVERVIEW

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Board of Occupational Therapy  
March 9, 2017

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# Presentation Overview

- Introduction to the Office of Professional Examination Services (OPES)
- Legal mandates and professional standards
- What is an occupational analysis?
- Why review national examinations?
- What is a linkage study?
- Schedule and costs

# Mission Statement

*OPES protects the interests of consumers by supporting the Department of Consumer Affairs and its regulatory entities in their commitment to establish and maintain licensure examination programs that are fair, valid, and legally defensible.*

# What services does OPES provide?

- Performs all aspects of the licensure validation process, including:
  - Occupational analysis
  - Examination development
  - Test scoring and statistical item analysis
  - National examination review
- Oversees DCA's master contract for computer-based test administration
- Reports to the Legislature the mandates of Business & Professions Code Section 139

# OPES Clients

## **BOARDS**

- Acupuncture
- Architects
- Barbering and Cosmetology
- Behavioral Sciences
- Chiropractic Examiners
- Court Reporters
- Dental
- Guide Dogs for the Blind
- Structural Pest Control
- Optometry
- Pharmacy
- Psychology
- Speech-Language Pathology, Audiology and Hearing Aid Dispensers
- Veterinary Medicine
- Vocational Nursing and Psychiatric Technicians

## **BUREAUS**

- Automotive Repair
- Cemetery and Funeral
- Professional Fiduciaries
- Real Estate
- Security and Investigative Services

## ▪ **COMMITTEES**

- Dental Hygiene
- Landscape Architects
- Registered Veterinary Technicians

# How does OPES ensure the validity of licensure examinations?

- Provides services and recommendations based on legal mandates and professional standards to ensure that examinations used by DCA are valid and fair for California candidates.
- Maintains an independent and objective perspective in the development and evaluation of licensure examinations

# Legal mandates regarding licensing examinations

- Government Code Section 12944
  - Job-relatedness of licensing examinations
- Business & Professions Code Section 139
  - Occupational analyses and validation studies are fundamental components of licensure examinations
  - Requirements for licensure programs:
    - Must meet professional standards
    - Must be evaluated regularly (5-7 years)
    - Must report annually to Legislature



# Professional Standards for Licensing Examinations

Technical and professional standards:

- Standards for Educational and Psychological Testing (*Standards*)
- Principles for Validation and Use of Personnel Selection Procedures (*Principles*)
- Uniform Guidelines on Employee Selection Procedures

# What is an occupational analysis?

- A study of a profession
- Defines the tasks new licensees must be able to perform at the time of licensure
- Identifies the underlying knowledge required to perform those tasks

# What is the purpose of an occupational analysis?

- Provides a current description of practice that is used to:
  - Develop an examination outline
  - Assist stakeholders with decisions regarding practice issues
  - Understand the depth, breadth and current trends of a profession

# Occupational analysis process

- Perform background research
- Conduct interviews/focus group with subject matter experts (SMEs)
- Review and finalize task and knowledge statements
- Develop occupational analysis survey
- Analyze data collected from survey
- Review survey results with SMEs
- Create examination outline
- Write validation report

# What is an examination outline?

- Based on the description of practice developed in the occupational analysis
- Specifies the critical tasks and knowledge to be tested
- Identifies the relative weight or percentage of each major subject area to be assessed in an examination
- Provides a direct link between job content and examination content

# Why are occupational analyses critical in examination development?

- Both legislation and professional testing standards require that examinations are job-related
  - Content domain of the licensing examination “should be defined clearly and justified in terms of the importance of the content for credential-worthy performance” (*Standard 14.14*)
- Occupational analysis:
  - Establishes job-relatedness of examinations
  - Forms the basis for legal defensibility of an examination

# Why do national examinations need to be reviewed?

- Required by Business & Professions Code Section 139 (b)
- Examines whether a national examination is valid for use in California
  - Verifies professional testing standards are met
  - Requires a current California occupational analysis
  - Compares California-specific to national practice
  - Determines if California-specific content is covered

# How are national examinations reviewed?

- Evaluate occupational analysis
- Review examination development process
- Review procedures for establishing passing score
- Review examination scoring and passing rates
- Review test administration and security procedures
- Review candidate information
- Conduct linkage study
- Write report

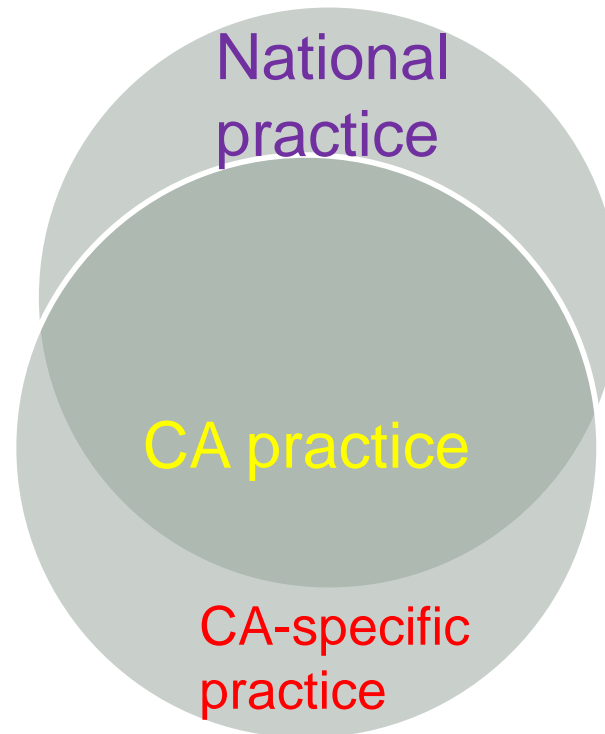


# What is a Linkage Study?

Identify areas of California practice that are evaluated and not evaluated by the national examination

- Based on CA occupational analysis results
- Subject matter experts review examination outline from CA occupational analysis to compare to National examination outline
- Used to identify if California-specific examination is needed

# Is there California-specific content that should be tested?

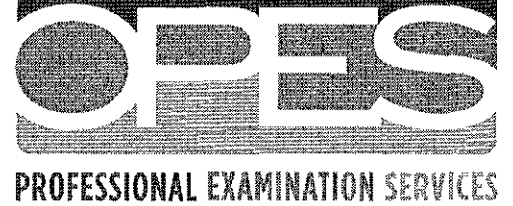


# Schedule and Costs

- Occupational analysis - approximately **nine** months, depending on variables such as SME availability
- National examination review – approximately **six** months, depending on variables such as responsiveness to OPES' requests for information
- Costs include OPES staff time, SME per diem and travel
- OPES costs are substantially less than outside, private consultants or vendors

# Questions

## OCCUPATIONAL ANALYSIS



<b>Purpose</b>	An occupational analysis (or job analysis) defines a profession in terms of the actual tasks that new licensees must be able to perform safely and competently at the time of licensure. In order to develop a licensing examination that is fair, job-related, and legally defensible, it must be based solidly upon what licensees actually do on the job. The occupational analysis should be reviewed routinely every five to seven years to verify that it accurately describes current practice.
<b>Process</b>	Typically, the process begins by selecting and interviewing a sample of licensees who accurately represent the geographic, ethnic, gender, experience, and practice specialty mix of the profession. During the interview, they identify the tasks that they perform within major categories of their profession and the knowledge required to perform those tasks. A committee of subject matter experts meets to finalize the task and knowledge statements, and develop a questionnaire. The questionnaire is sent to a representative sample of licensed practitioners. The data are analyzed, and the results are used to update the description of practice and/or develop a content outline.
<b>Content Outline</b>	The content outline specifies the tasks and knowledge that a newly licensed practitioner is expected to master by the time of licensure, and identifies the relative weight or percentage of each major subject area to be assessed in an examination. The content outline is used to develop questions for and validate new examinations.
<b>Content Validation Strategy</b>	In order for an examination to be valid, it must be empirically linked to the content outline of a recent occupational analysis. The Office of Professional Examination Services recommends that occupational analyses be validated no less than every five to seven years.
<b>Legal Standards and Guidelines</b>	A number of statutes, standards, and professional guidelines set criteria for the licensing process in California. These include the Standards for Educational and Psychological Testing, the Federal Uniform Guidelines for Employee Selection Procedures, the Civil Rights Act of 1991, California Government Code section 12944 of the California Fair Employment and Housing Act, Business and Professions Code section 139, and the Americans with Disabilities Act of 1990, as amended.
<b>Contact</b>	To learn more about these and other examination-related services, please contact the Office of Professional Examination Services at (916) 575-7240.

# Review of National Licensure Examinations

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California Business and Professions Code section 139 requires the Department of Consumer Affairs (DCA) to develop a policy regarding examination development and validation and occupational analysis. This policy is set out in DCA Policy OPES 12-01. Section A4 of the policy addresses the review of national examination programs, which states, "All licensure examinations appropriated for use in California professions regulated by DCA should be validated according to accepted technical and professional standards, as described elsewhere in these provisions." DCA's Office of Professional Examination Services (OPES), DCA's in-house licensure examination development unit, provides services and technical assistance to DCA boards, bureaus, and committees in meeting the validation requirements for licensure examinations.

## What is Reviewed?

At a minimum, the following factors must be considered in a review of state and national examination programs:

- Description of methodology used to establish content-related validity
- Occupational analysis report and frequency of updates
- Method to ensure standards are set for entry-level practice
- Examination outline and method to link to the occupational analysis
- Information about the sample of practitioners surveyed
- Item development process (experts used, editing methods, etc.)
- Sufficient size of item banks
- Pass-point setting methodology
- Examination security methods; examination administration processes
- Examination reliability
- Pass/fail ratio
- Statistical performance of examinations

California practice must be appropriately represented in an occupational analysis conducted on a national level in order for the results to be valid for examination development in California. In addition, if national examinations are used, the suitability of the examination content for California practice must be determined by a review of the occupational analysis, including the demographics of the practitioners upon which it is based. (DCA Policy OPES 12-01)

## **Psychometric and Professional Standards**

All aspects of test development and test use, including occupational analysis, examination development, and validation, should adhere to accepted technical and professional standards. These standards include those found in the *Standards for Educational and Psychological Testing (2014)*, referred to as the *Standards*, and the *Principles for the Validation and Use of Personnel Selection Procedures (2003)*, referred to as the *Principles*. In addition, the EEOC's *Uniform Guidelines on Employee Selection Procedures (1978)* provides direction on the legal defensibility of selection-related examinations.

## **National Examination Review Procedures**

The national examination review begins with a planning meeting between the DCA licensing entity and OPES. Time frames, costs, respective responsibilities, and expectations are discussed, after which an Intra-Agency Contract is developed by OPES. The DCA licensing entity staff (typically, the executive officer) will often have a relationship with the group developing the national examination. It is useful for the licensing entity to contact this group, explain the nature and reasons for the review, introduce OPES, and request the national examination developers to identify a primary contact for the review. OPES will then contact the national examination developers to begin the review. Follow-up e-mails are typically used to communicate the status of the project to the DCA licensing entity.

## **Linkage Study**

Following the review of technical and professional standards, OPES will perform a linkage study to compare the content of the national examination with the results of the California occupational analysis to determine the extent to which the content of the national examination reflects critical California practice. One outcome of this study is the development of a test plan that tests for California specific content (e.g., state laws) while minimizing overlap with the national examination.

## **Security Procedures**

OPES fully understands the proprietary nature of some of the information it seeks to review and the need to maintain security. A model security agreement is available as a basis on which to build a custom security agreement between the national examination group and OPES/DCA. In addition, OPES typically develops a confidential report that may be verbally presented to members of the DCA licensing entity in closed session. OPES can also create a second report that can be used in public meetings that excludes all proprietary and secure information.

## **Project Time Line**

National examination reviews typically take approximately six to nine months to complete. Factors affecting the time line often include attorney discussions regarding the nondisclosure agreement and delays associated with the national group's psychometricians or test vendor responding to OPES' inquiries.

(a) The Legislature finds and declares that occupational analyses and examination validation studies are fundamental components of licensure programs. It is the intent of the Legislature that the policy developed by the department pursuant to subdivision (b) be used by the fiscal, policy, and sunset review committees of the Legislature in their annual reviews of these boards, programs, and bureaus.

(b) Notwithstanding any other provision of law, the department shall develop, in consultation with the boards, programs, bureaus, and divisions under its jurisdiction, and the Osteopathic Medical Board of California and the State Board of Chiropractic Examiners, a policy regarding examination development and validation, and occupational analysis. The department shall finalize and distribute this policy by September 30, 1999, to each of the boards, programs, bureaus, and divisions under its jurisdiction and to the Osteopathic Medical Board of California and the State Board of Chiropractic Examiners. This policy shall be submitted in draft form at least 30 days prior to that date to the appropriate fiscal, policy, and sunset review committees of the Legislature for review. This policy shall address, but shall not be limited to, the following issues:

- (1) An appropriate schedule for examination validation and occupational analyses, and circumstances under which more frequent reviews are appropriate.
- (2) Minimum requirements for psychometrically sound examination validation, examination development, and occupational analyses, including standards for sufficient number of test items.
- (3) Standards for review of state and national examinations.
- (4) Setting of passing standards.
- (5) Appropriate funding sources for examination validations and occupational analyses.
- (6) Conditions under which boards, programs, and bureaus should use internal and external entities to conduct these reviews.
- (7) Standards for determining appropriate costs of reviews of different types of examinations, measured in terms of hours required.
- (8) Conditions under which it is appropriate to fund permanent and limited term positions within a board, program, or bureau to manage these reviews.

(c) Every regulatory board and bureau, as defined in Section 22, and every program and bureau administered by the department, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners, shall submit to the director on or before December 1, 1999, and on or before December 1 of each subsequent year, its method for ensuring that every licensing examination administered by or pursuant to contract with the board is subject to periodic evaluation. The evaluation shall include (1) a description of the occupational analysis serving as the basis for the examination; (2) sufficient item analysis data to permit a psychometric evaluation of the items; (3) an assessment of the appropriateness of prerequisites for admittance to the examination; and (4) an estimate of the costs and personnel required to perform these functions. The evaluation shall be revised and a new evaluation submitted to the director whenever, in the judgment of the board, program, or bureau, there is a



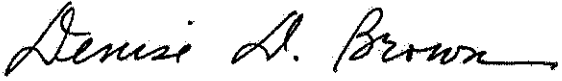
substantial change in the examination or the prerequisites for admittance to the examination.

(d) The evaluation may be conducted by the board, program, or bureau, the Office of Professional Examination Services of the department, the Osteopathic Medical Board of California, or the State Board of Chiropractic Examiners or pursuant to a contract with a qualified private testing firm. A board, program, or bureau that provides for development or administration of a licensing examination pursuant to contract with a public or private entity may rely on an occupational analysis or item analysis conducted by that entity. The department shall compile this information, along with a schedule specifying when examination validations and occupational analyses shall be performed, and submit it to the appropriate fiscal, policy, and sunset review committees of the Legislature by September 30 of each year. It is the intent of the Legislature that the method specified in this report be consistent with the policy developed by the department pursuant to subdivision (b).

*(Amended by Stats. 2009, Ch. 307, Sec. 1. Effective January 1, 2010.)*

# DEPARTMENTAL POLICY



<b>TITLE</b>	LICENSURE EXAMINATION VALIDATION POLICY		
<b>POLICY OWNER</b>	OFFICE OF PROFESSIONAL EXAMINATION SERVICES		
<b>POLICY NUMBER</b>	OPES 12-01	<b>SUPERCEDES</b>	NEW
<b>ISSUE DATE</b>	OCTOBER 1, 2012	<b>EFFECTIVE</b>	IMMEDIATELY
<b>DISTRIBUTE TO</b>	ALL EMPLOYEES		
<b>ORIGINAL APPROVED BY</b>	Denise D. Brown Director 		
<b>NUMBER OF PAGES</b>	9	<b>ATTACHMENTS</b>	NONE

## POLICY

It is the policy of the Department of Consumer Affairs (DCA) that occupational analyses and examination development studies are fundamental components of licensure programs. Licensure examinations with substantial validity evidence are essential in preventing unqualified individuals from obtaining a professional license. To that end, licensure examinations must be:

- Developed following an examination outline that is based on a current occupational analysis.
- Regularly evaluated.
- Updated when tasks performed or prerequisite knowledge in a profession or on a job change, or to prevent overexposure of test questions.
- Reported annually to the Legislature.

## APPLICABILITY

This policy applies to all employees, governmental officials, contractors, consultants, and temporary staff of DCA; and any of its divisions, bureaus, boards, and other constituent agencies. Within this policy, the generic acronym "DCA" applies to all of these entities. For purposes of this policy, "board" shall refer to all boards, bureaus, or committees.

## PURPOSE

The purpose of this policy is to meet the mandate of Business and Professions (B&P) Code section 139 (a) and (b) directing DCA to develop a policy regarding examination development and validation, and occupational analyses; and B&P Code section 139 (c) and (d) directing DCA to evaluate and report annually to the Legislature the methods used by each regulatory entity for ensuring that their licensing examinations are subject to periodic evaluations.

On September 30, 1999, the Office of Professional Examination Services (OPES) completed and distributed to its clients an internal publication "Examination Validation Policy" in compliance with B&P Code section 139 (a) and (b). In 2000, DCA policy "Licensing Examinations – Reporting Requirements" (OER-00-01) was established to meet the mandate of B&P Code section 139 (c) and (d). It has since been abolished. This new policy addresses the provisions of all four subsections of B&P Code section 139: (a), (b), (c), and (d).

## AUTHORITY

- Business and Professions Code section 139 (a), (b), (c), and (d)
- Business and Professions Code section 101.6
- Government Code section 12944 (a) of the Fair Employment and Housing Act
- *Uniform Guidelines on Employee Selection Procedures (1978)*, adopted by the Equal Employment Opportunity Commission, Civil Service Commission (EEOC), Department of Labor, and Department of Justice
- Civil Rights Act of 1964, as amended

## DEFINITIONS

**Content domain** is the "set of behaviors, knowledge, skills, abilities, attitudes or other characteristics to be measured by a test, represented in a detailed specification, and often organized into categories by which items are classified."<sup>1</sup>

**Content-related evidence of validity** is the evidence that shows the extent to which the content domains of a test are based upon tasks performed in practice and the knowledge, skills, and abilities required to perform those tasks.

**Criterion-referenced passing score** is the score on a licensure examination that establishes minimum competence. This score is an absolute standard and is not dependent upon the performance of the candidates who sit for the examination.

**Entry level** indicates minimum acceptable competence for licensure into a profession in the State of California.

**Examination development specialists** are individuals who are trained, experienced, and skilled in licensure-related occupational analysis; licensure-related examination planning, development, validation, administration, scoring, and analysis; and the professional and technical standards, laws, and regulations related to these tasks.

**Examination outline** is a detailed description for an examination that specifies the number or proportion of items required to assess each content domain.

**Minimum acceptable competence** is the level of knowledge, skill, and ability required of licensees that, when performed at this level, would not cause harm to the public health, safety, or welfare.

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<sup>1</sup> American Educational Research Association, American Psychological Association, and National Council on Measurement in Education, *Standards for Educational and Psychological Testing*, Washington, DC, 1999, p. 174

**Occupational analysis** is a method for identifying the tasks performed in a profession and the knowledge, skills, and abilities required to perform those tasks. For occupational licensing, the term occupational analysis is preferred over job analysis or practice analysis because the scope of analysis is across a profession, not an individual job.

**Reliable measurement/reliability** is “the degree to which test scores for a group of test takers are consistent over repeated applications of a measurement procedure and hence are inferred to be dependable, and repeatable for an individual test taker; the degree to which scores are free of errors of measurement for a given group.”<sup>2</sup>

**Review (“Audit”) of a national licensure examination** is an analysis of a nationally developed and administered licensure examination for a profession. The goals of the review are (a) the identification of any critical aspects of the profession as it is performed in California that is not tested in the national examination, but should be tested to ensure safe and competent practice in California and (b) an assessment of whether professional testing standards are being met.

**Subject matter experts (SMEs)** are practitioners currently possessing an active license in good standing, who are active in their practice, and are representative of the diversity of the professional population in terms of years licensed, practice specialty, ethnicity, gender, and geographic area of practice. When contracting for their services, DCA refers to SMEs as Expert Consultants.

**Validation** is “the process by which evidence of validity is gathered, analyzed, and summarized.”<sup>3</sup>

**Validity** is the “degree to which accumulated evidence and theory support specific interpretations of test scores entailed by proposed uses of a test.”<sup>4</sup> Validity is not a property inherent in a test; it is the degree to which the decisions based on that test are accurate. For licensing examinations, validity is interpreted as correctly differentiating between persons who are qualified to safely practice a profession from those who are not.

## **PROVISIONS**

### **A. VALIDATION TOPICS**

**B&P Code section 139 (b)** requires OPES to address eight specific topics, plus any other topics necessary to ensure that licensing examinations conducted on behalf of DCA are validated according to accepted technical and professional standards.

#### **1. AN APPROPRIATE SCHEDULE FOR EXAMINATION VALIDATION AND OCCUPATIONAL ANALYSIS AND CIRCUMSTANCES UNDER WHICH MORE FREQUENT REVIEWS ARE APPROPRIATE**

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<sup>2</sup> American Educational Research Association, op.cit., p. 180

<sup>3</sup> Society for Industrial Organizational Psychology, *Principles for the Validation and Use of Personnel Selection Procedures*, Bowling Green, OH, 2003, p. 72

<sup>4</sup> American Educational Research Association, op.cit., p. 184

### **Occupational Analysis Schedule**

Generally, an occupational analysis and examination outline should be updated every five years to be considered current; however, many factors are taken into consideration when determining the need for a shorter interval. For instance, an occupational analysis and examination outline must be updated whenever there are significant changes in a profession's job tasks and/or demands, scope of practice, equipment, technology, required knowledge, skills and abilities, or laws and regulations governing the profession. The board is responsible for promptly notifying the examination development specialist of any significant changes to the profession. This is true both for California-specific and national licensure examination-related occupational analyses.

### **Examination Validation Schedule**

New forms of a licensure examination assist in the legal defensibility of the examination, prevent overexposure of test items, and keep the examination current. The decision to create an examination, or new forms of an examination, is made by the board responsible for the license in consultation with the examination development specialist. The creation of new examination forms depends on the needs of the testing program and the number of people taking the examination.

## **2. MINIMUM REQUIREMENTS FOR PSYCHOMETRICALLY SOUND EXAMINATION VALIDATION, EXAMINATION DEVELOPMENT, AND OCCUPATIONAL ANALYSES, INCLUDING STANDARDS FOR SUFFICIENT NUMBER OF TEST ITEMS**

Boards have the ultimate responsibility to ensure that a licensure examination meets technical, professional, and legal standards and protects the health, safety, and welfare of the public by assessing a candidate's ability to practice at or above the level of minimum acceptable competence.

The inferences made from the resulting scores on a licensing examination are validated on a continuous basis. Gathering evidence in support of an examination and the resulting scores is an on-going process. Each examination is created from an examination outline that is based upon the results of a current occupational analysis that identifies the job-related critical tasks, and related knowledge, skills, and abilities (KSAs) necessary for safe and competent practice. Examinations are designed to assess those KSAs. To ensure that examinations are job-related, SMEs must participate in all phases of examination development.

All aspects of test development and test use, including occupational analysis, examination development, and validation, should adhere to accepted technical and professional standards to ensure that all items on the examination are psychometrically sound, job-related, and legally defensible. These standards include those found in *Standards for Educational and Psychological Testing*, referred to in this policy as the *Standards*; and the *Principles for Validation and Use of Personnel Selection Procedures*, referred to in this policy as the *Principles*.

The *Standards* and *Principles* are used as the basis of all aspects of the policies contained in this document. The EEOC *Uniform Guidelines on Employee Selection Procedures* (1978) provide direction on the legal defensibility of selection-related examinations.

Other professional literature that defines and describes testing standards and influences professionals is produced by the following organizations:

- *American Educational Research Association (AERA)*
- *American Psychological Association (APA)*
- *Council on Licensure, Enforcement, and Regulation (CLEAR)*
- *Educational Testing Service (ETS)*
- *Equal Employment Opportunity Commission (EEOC)*
- *Institute for Credentialing Excellence (ICE)*
- *National Council of Measurement in Education (NCME)*
- *Society for Industrial and Organizational Psychology (SIOP)*

#### **Minimum Requirements for Psychometrically Sound Occupational Analysis**

The minimum requirements for a psychometrically sound occupational analysis are as follows:

- Adhere to a content validation strategy or other psychometrically sound examination development method as referenced in a recognized professional source.
- Develop an examination outline from the occupational analysis.
- Gather data from a sample of current licensees in the State of California that represents the geographic, professional, and other relevant categories of the profession.

#### **Minimum Requirements for Psychometrically Sound Examination Development and Validation**

The minimum requirements for psychometrically sound examination development and validation are as follows:

- Adhere to the *Standards and Principles*.
- Document the process following recommendations in the *Standards and Principles*.
- Conduct with a trained examination development specialist in consultation with SMEs.
- Use an examination outline and psychometrically sound item-writing guidelines.
- Follow established security procedures.

#### **Standards for Sufficient Number of Test Items**

The number of items in an examination should be sufficient to ensure content coverage and provide reliable measurement. Both empirical data and the judgment and evaluation by SMEs should be used to establish the number of items within an examination. The empirical data should include results from an occupational analysis, item analysis, and test analysis.

The item bank for a licensure examination should contain a sufficient number of items such that: 1) at least one new form of the examination could be generated if a security breach occurred; and 2) items are not exposed too frequently to repeating examinees.

### **3. SETTING PASSING STANDARDS**

Passing score standards for licensure examinations must:

- Follow a process that adheres to accepted technical and professional standards.

- Adhere to a criterion-referenced passing score methodology that uses minimum competence at an entry-level to the profession.

An arbitrary fixed passing score or percentage, such as 70 percent, does not represent minimally acceptable competence. Arbitrary passing scores are not legally defensible.

If a board has an appeals process for candidates who are not successful in their examination, once a criterion-referenced passing score has been determined for a multiple-choice examination, the board shall not change a candidate's score without consultation with the examination development specialist.

#### **4. STANDARDS FOR REVIEW OF STATE AND NATIONAL EXAMINATIONS**

All licensure examinations appropriated for use in California professions regulated by DCA should be validated according to accepted technical and professional standards, as described elsewhere in these provisions. At a minimum, the following factors must be considered in a review of state and national examination programs:

- Right to access information from all studies and reports from test vendors (local or national)
- Right of state agency to review recent examination
- Description of methodology used to establish content-related validity
- Occupational analysis report and frequency of updates
- Method to ensure standards are set for entry-level practice
- Examination outline and method to link to the occupational analysis
- Information about the sample of practitioners surveyed
- Item development process (experts used, editing methods, etc.)
- Sufficient size of item banks
- Pass-point setting methodology
- Examination security methods; examination administration processes
- Examination reliability
- Pass/fail ratio
- Statistical performance of examinations

California practice must be appropriately represented in an occupational analysis conducted on a national level in order for the results to be valid for examination development in California, and if national examinations are used, the suitability of examination content for California practice must be determined by a review of the occupational analyses, including the demographics of the practitioners upon which it is based.

#### **5. APPROPRIATE FUNDING SOURCES FOR EXAMINATION VALIDATIONS AND OCCUPATIONAL ANALYSES**

Budget line items should be designated exclusively for examination development and occupational analyses projects. To assure validity, maintain consistency, preserve security, and ensure the integrity of the examination program, the budget line items need to be continuous appropriations.

Boards should budget for costs associated with examination and occupational analysis development; contracting with a computer-based testing vendor for electronic examination administration; and projecting for expenses associated with travel and per diem for SMEs who participate in examination development and occupational analysis workshops. Boards that administer examinations by paper and pencil should also consider the expense of examination proctors, including their travel and per diem expenses; examination site rental; additional security resources; and printing costs for the preparation guides and examination booklets.

Boards must have the budgetary flexibility to adapt to unexpected or additional program needs. For example, the potential for catastrophic incidents such as a security breach and the cost to replace the compromised examination should be considered in determining overall examination-related costs.

Boards contract via intra-agency contracts (IACs) with OPES for examination-related services. Currently, boards request OPES' services and submit a Budget Change Proposal (BCP) to obtain expenditure authority if they do not already have a budget line item for these expenditures. Boards are then charged, and OPES is reimbursed through the IACs for occupational analyses, national examination reviews, and ongoing examination development, evaluation, construction, and publication services. Consulting and psychometric expertise and test scoring and item analysis (TSIA) services, among others, continue to be funded by distributed administrative costs (pro rata).

## **6. CONDITIONS UNDER WHICH BOARDS SHOULD USE INTERNAL AND EXTERNAL ENTITIES TO CONDUCT THESE REVIEWS**

A board may choose to use external and/or internal resources for licensure examination development and/or review of state and national licensure examinations, and must determine the most logical application of those resources.

OPES is the internal resource for examination review and California-specific examination development services for DCA. OPES also conducts reviews of national examination programs to ensure compliance with California requirements.

If OPES is unable to provide the requested service, external development and review may occur. External examination development or review of a national licensure examination occurs when the board contracts with a qualified private testing firm.

## **7. STANDARDS FOR DETERMINING APPROPRIATE COSTS OF REVIEWS OF DIFFERENT TYPES OF EXAMINATIONS, MEASURED IN TERMS OF HOURS REQUIRED**

The *Standards* provide "a basis for evaluating the quality of testing practices."<sup>5</sup> These criteria can be used to identify tasks that must be performed in the development and validation of a licensure examination. Costs are applied to the performance of each task, based on its difficulty, available technology, and the complexity of the profession.

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<sup>5</sup> American Educational Research Association, op.cit, p. 1.



OPES has a defined fee schedule that is based on the number of hours to complete each phase of the project. An occupational analysis and an examination development project will require different tasks to be performed; therefore, the number of hours varies from one phase to another. The time and tasks required depends on the profession, type of exam, number of forms, frequency of administration, technology resources, and other factors.

## **8. CONDITIONS UNDER WHICH IT IS APPROPRIATE TO FUND PERMANENT AND LIMITED-TERM POSITIONS WITHIN A BOARD TO MANAGE THESE REVIEWS**

Because examinations are critical to the mandate for consumer protection, it is necessary that if a board provides an examination, it should maintain examination support staff. The number of support staff needed is determined by each board's examination requirements and secured through the budget process.

Factors that may affect change in the number of staff support needed include, but are not limited to the following:

- An increase in the number of times an examination is offered.
- A change of method by which an examination is administered, for example:
  - from paper to computer-based testing administration
  - from oral panel to written examination format
  - from written-only to the addition of a practical examination
- A change of examination administration, for example:
  - from a national to a California-based examination, or vice-versa
  - a change in examination administration vendors
- A unique circumstance such as a breach of examination security.
- A change in legislative mandates.

## **B. YEARLY REPORTING REQUIREMENTS**

**B&P Code section 139 (c)** specifies that every regulatory board shall submit to DCA on or before December 1 of each year its method for ensuring that every licensing examination is subject to periodic evaluation. These evaluations must include four components:

1. A description of the occupational analysis serving as the basis for the examination.
2. Sufficient item analysis data to permit a psychometric evaluation of the items.
3. An assessment of the appropriateness of prerequisites for admittance to the examination.
4. An estimate of the costs and personnel required to perform these functions.

**B&P Code section 139 (d)** states that the evaluation specified in section 139 (c) may be conducted either by the Board, Bureau, Committee, OPES, or a qualified private testing firm. OPES compiles this information annually into a report for the appropriate fiscal, policy, and review committees of the Legislature. This report is consolidated into DCA's Annual Report.

## **VIOLATIONS**

Validation ensures that licensing examinations are psychometrically sound, job-related, and legally defensible. Failure to follow the provisions of this policy may result in licensing persons who do not meet the minimum level of competency required for independent and safe practice,

exposing California consumers and DCA's regulatory entities to considerable risk of harm by unqualified licensees.

## **REVISIONS**

Determination of the need for revisions to this policy is the responsibility of OPES at (916) 575-7240. Specific questions regarding the status or maintenance of this policy should be directed to the Division of Legislative and Policy Review at (916) 574-7800.

## **RELATED DOCUMENTS**

Departmental Policy Memorandum "Examination Security": DPM-OPES 10-01  
Departmental Policy "Participation in Examination Workshops": OPES 11-01

## **AGENDA ITEM 10**

### **CONSIDERATION AND POSSIBLE ACTION ON ADDING REQUIREMENT OF ETHICS COURSE TO PROFESSIONAL DEVELOPMENT UNITS COMPLETED AS A CONDITION OF RENEWAL.**

The following are attached for review:

- Information on other CA healthcare boards ethics requirements
- Information on other state OT boards ethics requirements

## **BOARD OF BEHAVIORAL SCIENCES:**

Reminder to Renewing Interns and Associates:

Registrations expiring on or after July 1, 2016, cannot be renewed until the registrant has taken the law & ethics exam

### **LAW AND ETHICS PASSING SCORE REQUIRED FOR SUBSEQUENT REGISTRATION**

Applicants who obtained a subsequent (2nd or 3rd) ASW, IMF, or PCCI registration anytime during 2016, must pass the California Law and Ethics Exam, in order to renew their registration in 2017.

In addition, on or after January 1, 2017, applicants for subsequent ASW, IMF, or PCCI registration must pass the California Law and Ethics Exam, before a subsequent registration may be issued.

### **§1887.3. CONTINUING EDUCATION COURSE REQUIREMENTS**

INOPERATIVE July 1, 2015

(d) Any person renewing his or her license shall complete a minimum of six (6) hours of continuing education in the subject of law and ethics for each renewal period. The six (6) hours shall be considered part of the thirty-six (36) hour continuing education requirement.

## **CHIROPRACTIC EXAMINERS BOARD:**

### **Article 6. Continuing Education**

(e) On or after the implementation date, licensees shall complete a minimum of two (2) hours in subdivision (g)(11) - Ethics and Law, a minimum of four (4) hours in any one of, or a combination of, the subject areas specified in subdivision (g)(3) - History Taking and Physical Examination Procedures, subdivision (g)(5) - Chiropractic Adjustive Techniques or Chiropractic Manipulation Techniques, or subdivision (g)(10) - Proper and Ethical Billing and Coding.

Six hours of **mandatory** coursework within the following categories:

Two Hours In:

- **Ethics & Law** [CCR 361(g)(11)]. *You can take more than the minimum two hours, you can take these hours as part of your distance learning/on-line coursework, but you must take a minimum of two (2) hours each year in this specific topic.*

**HEARING AID DISPENSERS BOARD:**

9 hours of CE are required for each renewal period.

- Minimum of 6 hours must be directly relevant to the scope of practice of Hearing Aid Dispensers.
- Maximum of 3 hours may be taken in ethics courses (*including the ethics of advertising and marketing*) or business practices.
- Currently, there is no limit to the amount of hours that may be taken through self-study courses

**PHYSICAL THERAPY BOARD OF CALIFORNIA:**

**§ 1399.93. Continuing Competency Subject Matter Requirements and Other Limitations.**

For each renewal cycle, a licensee's continuing competency hours must include the following:

- (a) Two hours in ethics, laws and regulations, or some combination thereof, and

**RESPIRATORY CARE BOARD**

Title 16

Division 13.6

Article 5 – Continuing Competency

**§1399.350.5 Law and Professional Ethics Course**

1. (a) As Part of required continuing education, every person licensed under this chapter shall successfully complete a course in law and professional ethics as provided in section 1399.352.7 of this division, during every other license renewal cycle.
2. (b) Continuing education units earned in accordance with this section shall represent three units toward the non-clinical practice requirements set forth in section 1399.350(a). However, the course may be taken for continuing education credit only once during any renewal period.

Note: Authority cited: Sections 3719.5 and 3722, Business and Professions Code. Reference cited: Section 3719 and 3719.5, Business and Professions Code.

**§1399.352.7 Law and Professional Ethics Course Criteria**

An acceptable course in law and professional ethics shall meet the following criteria and be approved by the board:

- (a) The course shall be provided by the American Association for Respiratory Care or the California Society for Respiratory Care.
- (b) The course shall be three hours in length. One hour of instruction shall consist of not less than 50 minutes of actual classroom time or actual time spent by the licensee completing the coursework on the internet.
- (c) The content of the course shall consist of the following subject areas:
  - (1) Obligations of licensed respiratory care practitioners to patients under their care;

- (2) Responsibilities of respiratory care practitioners to report illegal activities occurring in the work place; and
- (3) Acts that jeopardize licensure and licensure status.

(d) The course shall meet all of the following requirements:

(1) The course shall consist of two (2) hours dedicated to professional ethics and one (1) hour toward California law. The board may opt to prepare or edit in full or part, any portion of the course.

(2) The course title shall be "Law and Professional Ethics."

(3) Delivery and format of the course shall be user-friendly.

(4) The course will be at least thirty (30) pages of written material with at least twenty (20) test questions related to professional ethics and ten (10) related to California law.

(5) Course content must include course description, course objectives, references, scenarios, questions, certificate of completion and legal disclosures, as applicable.

(6) The course shall provide several segments. Each segment must include a narrative or discussion, a scenario, and at least one question. For each question there must be between three and six possible responses with only one correct answer. Each response must include an explanation as to why the response is incorrect or correct. The number of questions tied to each segment may vary, as each component will differ in length and content.

(7) The course will include at least thirty (30) scenario-based questions that require critical thinking skills.

(8) The provider shall submit course test scores, names and other course related information to the board, as requested by the board.

(9) The provider shall not charge more than thirty dollars (\$30) for board applicants and sixty dollars (\$60) for board licensees or petitioners.

(10) The provider shall ensure that procedures are in place to address Americans with Disabilities Act (ADA) requests.

(11) The participant shall be allowed one (1) year to complete the course/exam after enrollment.

(12) The participant shall not be able to exit the post examination once commenced.

(13) The participant shall not have a time limit to take the post examination.

(14) The minimum post examination passing score shall be 70%. The post examination shall be scored on all cumulative components, not by each section.

(15) As applicable, the provider shall offer and allow participants who failed the initial post examination to retake the post examination free of charge. There shall be no wait time to retake the post examination if previously failed.

(16) The course will include a survey, optional to participants, to gather feedback for the board.

(e) The course is solely the product of the provider and the provider assumes full responsibility for the course.

(f) The course must be revised once every four years. Each revision must be approved by the board.

(g) The board's Education Committee may rescind the approval of a course at any time if it believes it has been altered or finds that the course does not meet the requirements as provided for in this article.

(h) The provider may advertise and or reference that an approved course is "approved" by the board.

**BOARDS/BUREAUS WITHOUT REQUIRMENTS FOR CONTINUING EDUCATION  
IN ETHICS:**

Dental Board of California

Dental Hygiene Committee of California

Optometry, Board of

Osteopathic Medical Board of California

Pharmacy, Board of

Physical Therapy Board of California

Physician Assistant Board

Psychology, Board of

Speech-Language Pathology and Audiology (excluding Hearing Aids)

Veterinary Medical Board

Vocational Nursing and Psychiatric Technicians, Board of

## ILLINOIS

### **Section 1315.145 Continuing Education**

#### a) Continuing Education (CE) Hour Requirements

- 1) Every occupational therapist and occupational therapy assistant shall complete 24 contact hours of CE relevant to the practice of occupational therapy during each prerenewal period as a condition of renewal. A prerenewal period is the 24 months preceding December 31 in the year of the renewal. 24 contact hours of CE is equivalent to 12 units of Continued Competency Activities (CCA) (2 contact hours = 1 unit).
- 2) In each renewal period, one contact hour shall include a course in ethics.
- 3) A CE contact hour equals 50 minutes. After completion of the initial CE hour, credit may be given in one-half hour increments.
- 4) Courses that are part of the curriculum of an accredited university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded. There is no restriction on the amount of CE hours that can be earned in this manner per renewal period.
- 5) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of the license.
- 6) Individuals licensed in Illinois but residing and practicing in other states must comply with the CE requirements set forth in this Section.
- 7) CE credit hours used to satisfy the CE requirements of another state may be submitted for approval for fulfillment of the CE requirements of the State of Illinois if they meet the requirements for CE in Illinois.
- 8) Credit shall not be given for courses taken in Illinois from unapproved sponsors.

## OHIO

### **Continuing Education Requirement - Occupational Therapist**

Review rule 4755-9-01 of the Occupational Therapy Laws and Rules for the current requirements.

#### **Important Information:**

**How to calculate your continuing education activity:** 1 contact hour is one clock hour spent in a continuing education activity. Occupational therapists are required to complete a minimum of 20 contact hours per renewal cycle.

**Licensees are required to complete at least one contact hour of ethics education per renewal.** Licensees can meet the ethics requirement by successfully passing the "Occupational Therapy Licensure Law Test" at <https://ohiootptatboard.mycourse.com>.



**If your initial licensure by examination** was granted within 12 months of graduation from an entry level occupational therapist program, you are exempt from providing proof of your continuing education activity. However, you are still required to renew your license.

**If your initial licensure by endorsement** was valid for 12 months or less, you are required to complete a minimum of 10 contact hours. Your continuing education reporting period would be two years prior to your current expiration date.

**If this is your first renewal after reinstating or restoring your Ohio license, and**

- Your license was valid for 12 months or less, you are required to complete a minimum of 10 contact hours.
- Your license was valid greater than 12 months, you are required to complete a minimum of 20 contact hours.

Your continuing education reporting period would be two years prior to your current expiration date. Continuing education activities used to reinstate or restore your license cannot be used towards any other renewal periods.

#### **Continuing Education Requirement - Occupational Therapy Assistant**

**Review rule 4755-9-01 of the Occupational Therapy Laws and Rules for the current requirements.**

#### **Important Information:**

**How to calculate your continuing education activity:** 1 contact hour is one clock hour spent in a continuing education activity. Occupational therapy assistants are required to complete a minimum of 20 contact hours per renewal cycle.

**Licensees are required to complete at least one contact hour of ethics education per renewal.** Licensees can meet the ethics requirement by successfully passing the "Occupational Therapy Licensure Law Test" at <https://ohiootptatboard.myicourse.com>.

**If your initial licensure by examination** was granted within 12 months of graduation from an entry level occupational therapist program, you are exempt from providing proof of your continuing education activity. However, you are still required to renew your license.

**If your initial licensure by endorsement** was valid for 12 months or less, you are required to complete a minimum of 10 contact hours. Your continuing education reporting period would be two years prior to your current expiration date.

**If this is your first renewal after reinstating or restoring your Ohio license, and**

- Your license was valid for 12 months or less, you are required to complete a minimum of 10 contact hours.
- Your license was valid greater than 12 months; you are required to complete a minimum of 20 contact hours.

Your continuing education reporting period would be two years prior to your current expiration date. Continuing education activities used to reinstate or restore your license cannot be used towards any other renewal periods.

The following states have no continuing competency requirements for ethics:

- AZ, FL, NV, NY, OR, PA, WA, TX

## **AGENDA ITEM 11**

### **DISCUSSION AND POSSIBLE ACTION REGARDING THE EFFECT ON THE LICENSE EXPIRATION DATE AND REQUIRED NUMBER OF PROFESSIONAL DEVELOPMENT UNITS WHEN A LICENSEE CHANGES THEIR LICENSE STATUS FROM INACTIVE TO ACTIVE.**

The following are attached for review:

- Letter from licensee regarding changing license expiration date after changing inactive license to active status
- Laws and regulations related to inactive status and license expiration date

September 1, 2016

To: Northern California O.T. Board

2005 Evergreen Suite 2250

Sacramento, Ca. 95815

RECEIVED  
BOARD OF OCCUPATIONAL THERAPISTS

16 SEP -6 PM 2:00

From: Betty Thoemke, OTL

128 Brittain Lane

Santa Rosa, Ca. (5401

RE: the rule that in order to be licensed, you must do it on the odd or even year you were born in, and you must do it on your birthday.

Dear Board members, and board president, Denise Miller,

I feel this is a very important concern, as it affects many occupational therapists, and at a time when it is difficult to fill every OT position, this rule makes it even harder.

I renewed my license on March 15, 2015 because I was requested to fill a school position. However, she decided on another person. At that time, I thought my registration would be good for 2 years because I had completed my 24 ceu's and paid my dues. However they registered me for only one year because my birthday fell on an even year.

So now I have an inactive license. If I renewed my license now, it would only be effective until my birthday. If I renewed on my birthday (2017), it would only be good for one year.

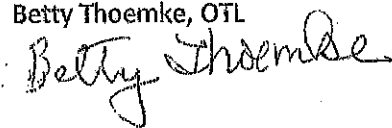
This is a rule that does not help our profession, in no way improves our services, makes it harder to get qualified OT's, and is basically unfair.

I would very much appreciate it if you would put this on the agenda for your next meeting, discuss it, and figure out how it could be changed.

I would very much like to have an active license, but that would mean another 24 ceu's, and I have already completed 24 one year ago on my birthday.

Thanking you in advance, and hoping to hear what you decided, I am looking forward to your answer.

Betty Thoemke, OTL



### **BPC Section 2570.11.**

Upon a written request, the board may grant inactive status to an occupational therapist or occupational therapy assistant who is in good standing, who meets the requirements of Section 462.

(Added by Stats. 2000, Ch. 697, Sec. 3. Effective January 1, 2001.)

### **BPC Section 462.**

(a) Any of the boards, bureaus, commissions, or programs within the department may establish, by regulation, a system for an inactive category of licensure for persons who are not actively engaged in the practice of their profession or vocation.

(b) The regulation shall contain the following provisions:

(1) The holder of an inactive license issued pursuant to this section shall not engage in any activity for which a license is required.

(2) An inactive license issued pursuant to this section shall be renewed during the same time period in which an active license is renewed. The holder of an inactive license need not comply with any continuing education requirement for renewal of an active license.

(3) The renewal fee for a license in an active status shall apply also for a renewal of a license in an inactive status, unless a lesser renewal fee is specified by the board.

(4) In order for the holder of an inactive license issued pursuant to this section to restore his or her license to an active status, the holder of an inactive license shall comply with all the following:

(A) Pay the renewal fee.

(B) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for renewal of an active license, unless a different requirement is specified by the board.

(c) This section shall not apply to any healing arts board as specified in Section 701.

(Added by Stats. 1994, Ch. 26, Sec. 14. Effective March 30, 1994.)

### **BPC Section 701.**

Each healing arts board referred to in this division shall issue, upon application and payment of the normal renewal fee, an inactive license or certificate to a current holder of an active license or certificate whose license or certificate is not suspended, revoked, or otherwise punitively restricted by that board.

As used in this article, "board" refers to any healing arts board, division, or examining committee which licenses or certifies health professionals.

(Added by Stats. 1977, Ch. 410.)

### **Section 4120. Renewal of License – Forms**

(a) The term of a license shall be two years.

(1) Unless renewed, a license issued by the board shall expire at 12 midnight on the last day of the holder's birth month during an odd year if the licensee was born in an odd year or during an even year, if the licensee was born in an even year. The initial license fee shall be prorated from the month of issuance based on the holder's birth month and birth year.

(2) To renew an unexpired license, the holder shall, before the time at which the license would otherwise expire, apply for renewal, pay the renewal fee, and certify that the licensee's representations on the renewal form are true, correct, and contain no material omissions of fact, signed under penalty of perjury.

(3) The renewal application shall include a statement specifying whether the licensee was convicted of a crime or disciplined by another public agency during the preceding renewal period, and whether the continuing competency requirements have been met if renewing in an active status.

(4) For a license that expires on or after July 1, 2010, as a condition of renewal, an applicant for renewal not previously fingerprinted by the board, or for whom a record of the submission of fingerprints no longer exists, is required to furnish to the Department of Justice, as directed by the board, a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice. Failure to submit a full set of fingerprints to the Department of Justice on or before the date required for renewal of a license is grounds for discipline by the board. It shall be certified on the renewal form whether the fingerprints have been submitted. This requirement is waived if the license is renewed in an inactive status, or the licensee is actively serving in the military outside the country.

**(5) An inactive license may be renewed.**

(6) Failure to provide all of the information required by this section renders any application for renewal incomplete and not eligible for renewal.

(b) A limited permit cannot be renewed.

Note: Authority cited: Sections 134, 152.6, 462, and 2570.20, Business and Professions Code.

Reference: Sections 114.3, 134, 152.6, 462, 2570.5, 2570.9, 2570.10, and 2570.11, Business and Professions Code.

## **Section 4127. Inactive Status**

**Upon written request, the board may grant inactive status to a license holder under the following conditions:**

(a) At the time of application for inactive status, the holder's license shall be current and not suspended, revoked, or otherwise punitively restricted by the board.

(b) The holder of an inactive license shall not engage in any activity for which a license is required.

(c) An inactive license shall be renewed during the same time period in which an active license is renewed. The holder of an inactive license need not comply with any continuing education requirement for renewal of an active license.

(d) The renewal fee for a license in an active status shall apply also for a renewal of a license in an inactive status, unless a lesser renewal fee is specified by the board.

**(e) In order for the holder of an inactive license to restore his or her license to an active status, he or she shall comply with all of the following:**

**(1) Pays the renewal fee.**

**(2) Provides proof of completion of continuing education equivalent to that required for a single renewal period of an active license, pursuant to Section 4161.**

Note: Authority cited: Sections 462, 700, 701, and 2570.20, Business and Professions Code. Reference: Sections 462, 700, 701, and 2570.11, Business and Professions Code.

**§ 4161. Continuing Competency**

**(a) Effective January 1, 2006, each licensee renewing a license under Section 2570.10 of the Code shall submit evidence of meeting continuing competency requirements by having completed twenty-four (24) professional development units (PDUs) during the preceding renewal period, or in the case of a license delinquently renewed, within the two years immediately preceding the renewal, acquired through participation in professional development activities.**

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Note: Authority cited: Sections 2570.10 and 2570.20, Business and Professions Code.  
Reference: Section 2570.10, Business and Professions Code.

## **AGENDA ITEM 12**

### **CONSIDERATION AND POSSIBLE ACTION OF REQUIRING COMPLETION OF PROFESSIONAL DEVELOPMENT UNITS FOR FIRST-TIME LICENSE RENEWALS.**

The following are attached for review:

- Letter requesting the Board eliminate the PDU exemption for first time license renewals
- CCR Section 4161



Ada Boone Hoerl, MA, COTA/L  
7037 3<sup>rd</sup> Parkway  
Sacramento, CA 95823

California Board of Occupational Therapy  
2005 Evergreen Street, Suite 2250  
Sacramento, CA 95815

October 26, 2016

To the Board:

I respectfully submit to you an item for consideration regarding continuing education requirements during the first renewal cycle for the Board Meeting Agenda for October 27, 2016. I am unsure of this fits in discussion for Item 7 or must be considered as public comment for items not on the agenda.

It has long been my belief, as an occupational therapy practitioner and educator, that continuing education should be required during the first renewal cycle for licensure. As the primary role of the Board is to ensure consumer safety, I believe that new graduates who have the least amount of experience should be held to the same professional standards of experienced practitioners. While a recent graduate may have current knowledge, they are entry-level practitioners without the benefit of clinical experience, that which is foundational to consumer safety.

On more than one occasion when reconnecting with new graduates I have been disappointed with their "laissez faire" attitude about additional training. I have also seen situations where these new graduates do not actively seek additional education and rush through the process in preparation for their second renewal period to meet the continuing education requirement.

Under our current system in California, the practitioners with the least amount of experience can go the longest period without additional training. I do not find this to be in the public's best interest. Rather, I would like to see new graduates instilled with a sense of professional responsibility for continued training, one that begins at graduation and first licensure.

Per the US Bureau of Labor Statistics, the top five states employing occupational therapists are: California, New York, Texas, Pennsylvania, and Florida.<sup>i</sup> The top five states employing occupational therapy assistants are: Texas, Ohio, New York, Pennsylvania, and Illinois.<sup>ii</sup> I have provided below the requirements for continuing education for license renewal for each of those states. While the results are varied, they show precedent for requiring continuing education in the first renewal cycle.

FLORIDA – *Exempt if licensed in the second half of a biennium*

"The board may by rule prescribe continuing education requirements, not to exceed 30 contact hours biennially, as a condition for renewal of licensure. The program criteria for those requirements must be approved by the board."<sup>iii</sup>

"Those persons certified for licensure in the second half of a biennium (on or after 3/1/2016) are exempt from the total 26 hours required continuing education requirements for that biennium, except for the mandatory two (2) hours prevention of medical errors course requirement, and the one (1) hour of HIV/AIDS education given by Board approved providers."<sup>iv</sup>

*ILLINOIS – Exempt within first renewal cycle*

"Every occupational therapist and occupational therapy assistant shall complete 24 contact hours of CE relevant to the practice of occupational therapy during each prerenewal period as a condition of renewal. ... A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of the license."<sup>v</sup>

*NEW YORK – Prorated until 1-31-16, then required*

"Effective February 13, 2013, to renew your registration as an occupational therapist and occupational therapy assistant, New York State Education Law requires the completion of 36 hours of continuing education during each 3-year registration period. However, if your renewal date falls between 3/1/13 through 1/31/16, you will only be required to complete a portion of the required competency hours. ... Practitioners whose first re-registration date occurs less than 3 years from February 13, 2013 will have to complete continuing education hours at the rate of one-half hour per month for the period."<sup>vi</sup>

*OHIO – Exempt within first year of graduation*

"Occupational therapists [and occupational therapy assistants] are required to complete a minimum of 20 contact hours per renewal cycle. ... If your initial licensure by examination was granted within 12 months of graduation from an entry level occupational therapist [or occupational therapy assistant] program, you are exempt from providing proof of your continuing education activity. However, you are still required to renew your license."<sup>vii</sup>

*PENNSYLVANIA – Exempt during first renewal cycle*

"Beginning with the July 1, 2013—June 30, 2015, biennium, an occupational therapist shall complete a minimum of 24 contact hours in each biennial period in acceptable continued competency activities listed in § 42.55 (relating to acceptable continued competency activities) as a condition of licensure renewal. An occupational therapist is exempt from complying with subsection (a) for the first biennial renewal following initial licensure."<sup>viii</sup>

*TEXAS – Required during first renewal cycle*

"All licensees must complete a minimum of 30 hours of continuing education every two years during the period of time the license is current in order to renew the license and must provide this information as requested."<sup>ix</sup>

It is my hope that the Board will see fit to convene an ad hoc committee to review these findings and develop recommendations for the Board's consideration about the potential for modifying the continuing education requirements in California. If not perceived as any conflict of interest, I will gladly serve on that committee.

I thank you for this opportunity to submit my concerns for review. Thank you for the vital work that you do to ensure consumer safety and provide clear recommendations for occupational therapy practitioners in California.

Sincerely,

*Ada Boone Hoerl*

Ada Boone Hoerl, MA, COTA/L

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<sup>i</sup> <http://www.bls.gov/oes/current/oes291122.htm>

<sup>ii</sup> <http://www.bls.gov/oes/current/oes312011.htm>

<sup>iii</sup> [http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0400-0499/0468/Sections/0468.219.html](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0468/Sections/0468.219.html)

<sup>iv</sup> <http://floridasoccupationaltherapy.gov/licensee-renewal-faqs/>

<sup>v</sup> <ftp://www.ilga.gov/JCAR/AdminCode/068/068013150001450R.html>

<sup>vi</sup> <http://www.op.nysed.gov/prof/ot/otcco.htm>

<sup>vii</sup> <http://otptat.ohio.gov/OccupationalTherapy/ContinuingEducation.aspx>

<sup>viii</sup> <http://www.pacode.com/secure/data/049/chapter42/s42.53.html>

<sup>ix</sup>

[http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&tl=40&pt=12&ch=367&rl=1](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&tl=40&pt=12&ch=367&rl=1)

## § 4161. Continuing Competency

**(a) Effective January 1, 2006, each licensee renewing a license under Section 2570.10 of the Code shall submit evidence of meeting continuing competency requirements by having completed twenty-four (24) professional development units (PDUs) during the preceding renewal period, or in the case of a license delinquently renewed, within the two years immediately preceding the renewal, acquired through participation in professional development activities.**

(1) One (1) hour of participation in a professional development activity qualifies for one PDU;

(2) One (1) academic credit equals 10 PDUs;

(3) One (1) Continuing Education Unit (CEU) equals 10 PDUs.

(b) Topics and subject matter shall be pertinent to the practice of occupational therapy and course material must have a relevance or direct application to a consumer of occupational therapy services. Except as provided in subdivision (c), professional development activities acceptable to the board include programs or activities sponsored by the American Occupational Therapy Association (AOTA) or the Occupational Therapy Association of California; post-professional coursework completed through any approved or accredited educational institution, or otherwise meets all of the following criteria:

(1) The program or activity contributes directly to professional knowledge, skill, and ability; and

(2) The program or activity must be objectively measurable in terms of the hours involved.

(c) PDUs may also be obtained through any or a combination of the following:

(1) Involvement in structured special interest or study groups with a minimum of three (3) participants. Three (3) hours of participation equals one (1) PDU, with a maximum of six (6) PDUs credited per renewal period.

(2) Structured mentoring with an individual skilled in a particular area. For each 20 hours of being mentored, the practitioner will receive three (3) PDUs, with a maximum of six (6) PDUs credited per renewal period.

(3) Structured mentoring of a colleague to improve his/her skills. Twenty (20) hours of mentoring equals three (3) PDUs, with a maximum of six (6) PDUs credited per renewal period.

(4) Supervising the fieldwork of Level II occupational therapist and occupational therapy assistant students. For each 60 hours of supervision, the practitioner will receive .5 PDU, with a maximum of twelve (12) PDUs credited per renewal period.

(5) Publication of an article in a non-peer reviewed publication. Each article equals five (5) PDUs, with a maximum of ten (10) PDUs credited per renewal period.

(6) Publication of an article in a peer-reviewed professional publication. Each article equals 10 PDUs, with a maximum of ten (10) PDUs credited per renewal period.

(7) Publication of chapter(s) in occupational therapy or related professional textbook. Each chapter equals 10 PDUs, with a maximum of ten (10) PDUs credited per renewal period.

(8) Making professional presentations at workshops, seminars and conferences. For each hour presenting, the practitioner will receive two (2) PDUs, with a maximum of six (6) PDUs credited per renewal period.

(9) Attending a meeting of the California Board of Occupational Therapy. Each meeting attended equals two (2) PDUs, with a maximum of six (6) PDUs credited per renewal period.

(10) Attending board outreach activities. Each presentation attended equals two (2) PDUs, with a maximum of four (4) PDUs credited per renewal period.

(d) Partial credit will not be given for the professional development activities listed in subsection (c) and a maximum of twelve (12) PDUs may be credited for the activities listed in subsection (c).

**(e) This section shall not apply to the first license renewal following issuance of the initial license.**

(f) Of the total number of PDUs required for each renewal period, a minimum of one half of the units must be directly related to the delivery of occupational therapy services, may include: models, theories or frameworks that relate to client/patient care in preventing or minimizing impairment, enabling function within the person/environment or community context. Other activities may include, but are not limited to, occupation based theory assessment/interview techniques, intervention strategies, and community/environment as related to one's practice.

(g) Applicants who have not been actively engaged in the practice of occupational therapy within the past five years completing continuing competency pursuant to section 2570.14(a) of the Code to qualify for licensure shall submit evidence of meeting the continuing competency requirements by having completed, during the two year period immediately preceding the date the application was received, forty (40) PDUs that meet the requirements of subsection (b). The forty PDUs shall include:

(1) Thirty-seven (37) PDUs directly related to the delivery of occupational therapy services which may include the scope of practice for occupational therapy practitioners or the occupational therapy practice framework;

(2) Three (3) PDUs related to ethical standards of practice in occupational therapy.

Note: Authority cited: Sections 2570.10 and 2570.20, Business and Professions Code. Reference: Section 2570.10, Business and Professions Code.