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Colorado Department of Regulatory Agencies
Office of Policy, Research and Regulatory Reform

Occupational Therapists and Occupational Therapy Assistants



October 12, 2006

STATE OF COLORADO

DEPARTMENT OF REGULATORY AGENCIES

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Bill Owens
Governor

October 12, 2006

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado Department of Regulatory Agencies has completed its evaluation of the sunrise application for regulation of occupational therapists and occupational therapy assistants and is pleased to submit this written report. The report is submitted pursuant to section 24-34-104.1, Colorado Revised Statutes, which provides that the Department of Regulatory Agencies shall conduct an analysis and evaluation of proposed regulation to determine whether the public needs, and would benefit from, the regulation.

The report discusses the question of whether there is a need for the regulation in order to protect the public from potential harm, whether regulation would serve to mitigate the potential harm, and whether the public can be adequately protected by other means in a more cost-effective manner.

Sincerely,

A handwritten signature in cursive script that reads "Tambor Williams".

Tambor Williams
Executive Director

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The Sunrise Process

Background

Colorado law, section 24-34-104.1, Colorado Revised Statutes (C.R.S.), requires that individuals or groups proposing legislation to regulate any occupation or profession first submit information to the Department of Regulatory Agencies (DORA) for the purposes of a sunrise review. The intent of the law is to impose regulation on occupations and professions only when it is necessary to protect the public health, safety or welfare. DORA must prepare a report evaluating the justification for regulation based upon the criteria contained in the sunrise statute:

- (I) Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public, and whether the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;
- (II) Whether the public needs, and can reasonably be expected to benefit from, an assurance of initial and continuing professional or occupational competence; and
- (III) Whether the public can be adequately protected by other means in a more cost-effective manner.

Any professional or occupational group or organization, any individual, or any other interested party may submit an application for the regulation of an unregulated occupation or profession. Applications must be accompanied by supporting signatures and must include a description of the proposed regulation and justification for such regulation. Applications received by December 1 must have a review completed by DORA by October 15 of the year following the year of submission.

Methodology

DORA has completed its evaluation of the proposal for regulation of occupational therapists (OTs) and occupational therapy assistants (OTAs). During the sunrise review process, DORA performed a literature search; contacted and interviewed representatives of the Occupational Therapy Association of Colorado, other professional associations, hospital administrators and consumers of occupational therapy services; and reviewed the licensure laws of other states.

In order to determine the number and types of complaints filed against OTs and OTAs in Colorado, DORA contacted representatives of the Office of the Attorney General's Consumer Protection Section, the Colorado Board of Medical Examiners and the Colorado Office of Physical Therapy Licensure. To better understand the practice of OTs and OTAs, the author of this report visited a rehabilitative hospital, a pediatrics unit and a hand therapy clinic.

Proposal for Regulation

The Occupational Therapy Association of Colorado (Applicant) has submitted a sunrise application to the Department of Regulatory Agencies (DORA) for review in accordance with the provisions of section 24-34-104.1, Colorado Revised Statutes (C.R.S.). The application identifies state licensure of occupational therapists (OTs) and occupational therapy assistants (OTAs) as the appropriate level of regulation to protect the public.

As part of the sunrise review process, the Applicant submitted model legislation (Model Act) that was prepared by the American Occupational Therapy Association, Inc. This model legislation may be found in Appendix A on page 27 of this sunrise report. Importantly, the Applicant is in no way bound to moving forward with the Model Act should the Applicant pursue actual legislation in Colorado. Rather, the Model Act merely serves as a framework for discussing whether and how OTs, OTAs or both, should be regulated by the State of Colorado.

The Model Act would create a five-member Board of Occupational Therapy (Board), which would be composed of two OTs, one OTA and two public members. Board members would be limited to serving two, three-year terms and the Board would be required to meet at least four times each year.

Section 3.01 of the Model Act would make it illegal to engage in the practice of occupational therapy or to assist in the practice of occupational therapy, and to hold oneself out as an OT or OTA without being duly licensed as such.

Section 1.04(6) of the Model Act defines the practice of occupational therapy as:

the therapeutic use of everyday life activities (occupations) with individuals or groups for the purpose of participation in roles and situations in home, school, workplace, community, and other settings. Occupational therapy services are provided for the purpose of promoting health and wellness and to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Occupational therapy addresses the physical, cognitive, psychosocial, sensory, and other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect health, well-being, and quality of life.

Licensed practitioners of other health professions would be exempt from the licensing requirements of the Model Act.

The holder of an OT license issued by another state would be able to practice occupational therapy in Colorado without obtaining licensure here for up to 30 days per calendar year.

OTs and OTAs could become licensed in Colorado under the Model Act following one of three paths: examination, endorsement or through a grandfather provision.

To become licensed by examination, a candidate would need to graduate from an educational program that has been accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education. Additionally, OT candidates would need to complete at least 24 weeks of supervised fieldwork and OTA candidates would need to complete at least 16 weeks of supervised fieldwork. Finally, OT and OTA licensure candidates would need to take and pass the relevant competency examination offered by the National Board for Certification in Occupational Therapy, Inc. (NBCOT), or another examination approved by the Board.

The Model Act would permit the Board to issue "limited permits" to those candidates for licensure by examination to practice as OTs or OTAs, under supervision, who have completed the education and fieldwork requirements, but who have not yet taken or received the results of the NBCOT examination.

An OT or OTA could obtain licensure by endorsement when such a candidate is licensed in another state, the licensing requirements of which are at least as stringent as those imposed by the Model Act. The Model Act would also permit the Board to issue a temporary license to applicants for licensure by endorsement for the period during which the approval of the application is pending.

Finally, the Model Act would permit an individual who had taken and passed the NBCOT examination for OTs, thereby rendering such an individual an Occupational Therapist-Registered (OTR), or OTAs, thereby rendering such an individual a Certified Occupational Therapy Assistant (COTA), prior to the effective date of the Model Act, to obtain a license.

The Model Act would authorize the Board to promulgate mandatory continuing education requirements and would also authorize the Board to grant inactive status to any licensee.

Grounds for discipline under the Model Act would include:

- Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
- Being guilty of unprofessional conduct as defined by the rules established by the Board, or violating the code of ethics adopted and published by the Board;
- Being convicted of a crime in any court except for minor offenses;
- Violating any lawful order, rule, or regulation rendered or adopted by the Board;
- Violating any provision of the Model Act or any rules promulgated thereunder;
- Practicing beyond the scope of the practice of occupational therapy;
- Providing substandard care due to a deliberate or negligent act or failure to act, regardless of whether the patient is actually harmed;
- Providing substandard care, including exceeding the authority to perform components of intervention selected and delegated by the supervising OT, regardless of whether the patient is actually harmed;
- Knowingly delegating responsibilities to an individual who does not have the skills or abilities to perform those responsibilities;
- Failing to provide appropriate supervision to an OTA in accordance with the Model Act or Board rules;
- Practicing as an OT or OTA when competent services to recipients may not be provided due to the licensee's own physical or mental impairment;
- Having had an OT or OTA license denied, revoked, suspended or otherwise disciplined by the proper authorities of another jurisdiction;
- Engaging in sexual misconduct by engaging in or soliciting sexual relationships while an OT/OTA-patient relationship exists or by making sexual advances, requesting sexual favors or engaging in physical contact of a sexual nature with patients; and
- Aiding or abetting a person who is not licensed as an OT or OTA in this state and who directly or indirectly performs activities requiring a license.

Upon finding a violation of the Model Act, the Board would be authorized to revoke, suspend, summarily suspend, place on probation, place practice restrictions upon, or refuse to renew a license. Additionally, the Board would be authorized to issue confidential advisory letters and letters of reprimand. The Board would also be authorized to impose fines, although the maximum dollar amount of those fines is not delineated in the Model Act.

Profile of the Profession

According to the Applicant,

The focus of occupational therapy is on an individual's ability to effectively engage in performance areas that are purposeful and meaningful, such as activities of daily living, work and other productive activities. Occupational therapists evaluate and treat sensorimotor, cognitive and psychosocial problems that may interfere with an individual's performance abilities while taking into account the performance context, such as environmental factors.¹

OTs work with a diverse population, ranging from newborns born with disabilities, to senior citizens who are recovering from stroke, illness or other physical problems. They work with those who are mentally, physically, developmentally or emotionally impaired and help them to develop, recover or maintain daily living and work skills.

In this context, "occupational" essentially means whatever the particular patient needs to do – activities of daily living. It is not confined to a wage-earning setting. For a stroke victim, "occupation" may mean relearning how to drive a car. For a newborn child, "occupation" may mean learning how to eat.

Activities of daily living can include everything from dressing, cooking and eating to improving visual acuity or compensating for short-term memory loss. OTs develop individualized treatment plans for their patients that include exercises designed to assist the patient in functioning in the world. Such exercises may include physical exercises, such as strength and dexterity improvement, as well as exercises designed to improve hand-eye coordination, decision-making, abstract reasoning, problem solving, perceptual skills, memory, sequencing and coordination.

¹ Sunrise Application, filed June 29, 2005, p. 1.

Not surprisingly, OTs often work in interdisciplinary teams with other healthcare professionals such as physical therapists, speech therapists, respiratory therapists and others.

In general, OTs perform assessments of patients and develop treatment plans, and, when necessary, refer patients back to physicians if adequate progress is not made. OTAs work with the individual patients to progress through the treatment plans.

OTs and OTAs work in a wide variety of settings, as well. According to a survey conducted by the Applicant in 2005, OTs and OTAs work in the following settings in the percentages indicated:²

School System/Educational	30.9%
Hospital/Rehabilitation Unit	30.8%
Skilled Nursing/Long-Term Care	14.4%
Home Health	6.3%
Academic	2.8%
All Others	14.8%

Until recently, a baccalaureate degree was sufficient to become an OT. However, effective January 1, 2007, the Accreditation Council for Occupational Therapy Education (ACOTE) will only accredit post-baccalaureate occupational therapy degree programs.

Colorado State University (CSU) is the only school in Colorado that has a graduate occupational therapy degree program, and that program was ranked as seventh best in the nation by *U.S. News & World Report* in 2004.³ CSU offers a master's degree in occupational therapy through its Department of Occupational Therapy, as well as an interdisciplinary doctorate degree through its School of Education.

The course of study for master's degree candidates depends upon whether a particular candidate has a bachelor's degree in occupational therapy or in some other field. Table 1, which is based on information downloaded from CSU's website on June 27, 2006, provides an overview of the courses offered by the CSU graduate program and whether such courses are required or electives, depending on an individual candidate's undergraduate degree.

² "Licensure Survey 2005," conducted by the Occupational Therapy Association of Colorado, the results of which were provided to DORA in Spring 2006.

³ CSU Press Release, April 7, 2004.

Table 1
CSU Graduate Courses in Occupational Therapy

Course Title	Number of Credits	Undergraduate Degree in Occupational Therapy	Undergraduate Degree in Field Other than Occupational Therapy
Biomechanical Interventions in OT I	4	Elective	Required
Biomechanical Interventions in OT II	4	Elective	Required
Evidence-Based Practice Research	3	Required	Required
Field Placement/Level II Fieldwork	24	--	Required
Group Study	Variable	Elective	With Permission
Independent Study	Variable	Elective	With Permission
Indirect Intervention and Consultation	4	Elective	Required
Leadership and Administration	3	Elective	Required
Neurobehavioral Interventions in OT I	4	Elective	Required
Neurobehavioral Interventions in OT II	4	Elective	Required
OT Fieldwork Seminar	3	--	Required
OT Practice Application and Seminar	3	Elective	With Permission
OT Process	4	Elective	Required
OT Theories	3	Elective	Required
Plan B Research	3+	Required	With Permission
Program Development, Funding and Evaluation	3	Required	Required
Psychosocial Interventions in OT I	4	Elective	Required
Psychosocial Interventions in OT II	4	Elective	Required
Research	Variable	Elective	With Permission
Research Methods I	3	Required	Required
Research Methods II	3	Required	Required
Occupation and the Individual	2	Elective	Required
Supervised College Teaching	Variable	Elective	With Permission
Thesis	9	Required	Elective

OT = Occupational Therapy

-- = Website was silent as to whether this course is required or an elective.

As Table 1 indicates, students with undergraduate degrees in occupational therapy have considerably more latitude in designing their graduate programs of study than do students with undergraduate degrees in other fields.

Tuition and fees at CSU depend upon the number of credits taken each semester and whether the student is a Colorado resident or non-resident. However, assuming a student takes 15 credits each semester for three and one-half semesters, plus 24 credits of fieldwork, a student paying in-state tuition can expect to pay approximately \$11,000 in tuition and fees, and a student paying out-of-state tuition can expect to pay approximately \$36,500 in tuition and fees.⁴

According to a representative of CSU, that institution graduates approximately 55 master's level occupational therapists each year.

There are no specific educational requirements to become an OTA. However, many individuals seeking to enter this occupation seek an associate's degree or a certificate.

Pueblo Community College (PCC) maintains the only OTA program in Colorado, offering an associate's in applied science degree. Table 2, which is based on information downloaded from PCC's website on June 28, 2006, illustrates the titles of courses and the number of credits assigned to each for PCC's associate's degree program.

⁴ Based on Fall 2005/Spring 2006 CSU tuition and fees, as downloaded on June 27, 2006, from www.colostate.edu/Depts/Registrar/FA05.tuitiongraduate.htm.

Table 2
PCC Associate's Degree Courses in
Occupational Therapy Assisting

Semester	Course Title	Number of Credits
1 – Fall	Basic Anatomy and Physiology	4
1 – Fall	Basic OT Frames of Reference and Documentation	2
1 – Fall	General Psychology I	3
1 – Fall	Introduction to Disease and Activity Analysis	3
1 – Fall	Introduction to OT	3
1 – Fall	Medical Terminology Seminar	1
Total First Semester		16
2 – Spring	Assessment of Component Skills in Occupations	4
2 – Spring	Basic OT Application to Psychiatry	4
2 – Spring	Career Math	3
2 – Spring	Geriatric Issues, Diseases, and Treatment Techniques	3
2 – Spring	Origins of Occupational and Component Skills	2
Total Second Semester		16
3 – Summer	English Composition	3
3 – Summer	Geriatric Level I Fieldwork Experience	1
3 – Summer	OT Rehabilitative Techniques	2
Total Third Semester		6
4 – Fall	Humanities	3
4 – Fall	OT Application to Adult Physical Disabilities	3
4 – Fall	Pediatric Diseases, Disabilities, and Treatment	3
4 – Fall	Pediatric Level I Fieldwork Experience	1
4 – Fall	Physical Disabilities Level I Fieldwork Experience	1
4 – Fall	Physical Disabilities Neuro-Retraining	3
4 – Fall	Professional and Activities Management	2
Total Fourth Semester		16
5 – Spring	Internship in OT I	7
5 – Spring	Internship in OT II	7
5 – Spring	OT Seminar	1
Total Fifth Semester		15
Program Total		69

OT = Occupational Therapy

As Table 2 shows, the PCC associate's degree program is designed to be completed within approximately 18 months, provided the student attends PCC on a full-time basis.

PCC tuition and fees vary, depending upon whether a particular student is a resident of Colorado. Based on PCC's estimates for the 2006-2007 academic year for tuition, fees, books and other supplies, it costs Colorado residents approximately \$6,785, and non-Colorado residents \$24,205 to complete the associate's degree program at PCC.

According to a representative of PCC, that institution graduates approximately 15 OTAs each year.

OTs and OTAs may also seek the private credentials offered by the National Board for Certification in Occupational Therapy, Inc. (NBCOT). NBCOT offers the "Occupational Therapist – Registered" or "OTR" credential for OTs, and the "Certified Occupational Therapy Assistant" or "COTA" for OTAs.

For either credential, candidates must have graduated with the appropriate degree from an educational program accredited by ACOTE, and must have completed all academic fieldwork required by the educational program.

The programs at CSU and PCC are both accredited by ACOTE.

Both OTR and COTA examinations consist of 200 multiple-choice questions, and the application/examination fee for each is \$490. Table 3 provides a basic explanation of the topics covered by each examination, as well as the percentage and total number of questions addressing each.

Table 3
OTR and COTA Examination Topics

Examination Specifications	Percentage of Items on OTR Examination	Number of Scored Items on OTR Examination	Percentage of Items on COTA Examination	Number of Scored Items on COTA Examination
Evaluate the individual/group to determine needs and priorities for occupation-based interventions.	25%	42	12%	21
Develop intervention plan that addresses the occupational needs of individuals/groups.	21%	36	22%	37
Implement occupationally meaningful interventions with individuals/groups that support participation in relevant environments.	41%	70	50%	85
Provide OT services that address the occupational performance needs of populations.	6%	10	9%	15
Manage, organize, and promote OT services.	7%	12	7%	12

OT = Occupational Therapy

Figures for scored examination items do not add up to 200 because each examination contains 30 pre-test items that are not scored.

NBCOT has contracted with Thomson Prometric (Prometric) to administer the OTR and COTA examinations. Prometric maintains four locations in Colorado where candidates may take the OTR and COTA examinations, one each in Colorado Springs, Grand Junction, Greenwood Village and Longmont. Candidates must schedule a time to take the relevant examination, and may do so via telephone or on-line.

Once the OTR or COTA credential has been earned, credential holders must complete 36 hours of continuing education every three years. Credentials are renewed every three years at a cost of \$60.

NBCOT also has a code of conduct, consisting of eight principals, to which credential holders are expected to adhere. In short, these principals require OTRs and COTAs to be truthful, abide by the law, to act within the scope of their training and skills and to maintain proper boundaries with patients.

Finally, NBCOT receives and investigates complaints against its credential holders. At most, NBCOT can revoke the credential of the individual involved.

As of March 31, 2006, there were 1,932 active OTRs in Colorado and 395 active COTAs in Colorado.⁵

In addition to NBCOT, many OTs and OTAs in Colorado are members of the American Occupational Therapy Association (AOTA). According to representatives of the Applicant, as of March 20, 2006, 690 Colorado-based OTs, OTAs, students and associates were members of AOTA. As of March 27, 2006, the Applicant had 168 members.

⁵ Letter from NBCOT to Applicant, April 19, 2006.

Summary of Current Regulation

The Colorado Regulatory Environment

Although the practice of occupational therapy is not regulated in Colorado, under the Colorado Consumer Protection Act (CPA), the following titles are protected:⁶

- Certified Occupational Therapist
- Occupational Therapist Registered
- Licensed Occupational Therapist
- Occupational Therapist
- O.T.
- O.T.R.
- O.T.R./L.

The CPA declares it to be a deceptive trade practice for any person to use one of the protected titles unless that person:⁷

- Has earned a baccalaureate, master's or doctorate degree in occupational therapy from an accredited school;
- Has completed an internship under the supervision of an occupational therapist;
- Has taken and passed the entry-level certification examination offered by the American Occupational Therapy Certification Board (AOTCB) or its successor organization, the National Board for Certification in Occupational Therapy (NBCOT); and
- Holds a certificate through AOTCB or NBCOT.

This means that anyone can practice occupational therapy in Colorado, but only those who satisfy the enumerated criteria may use the protected titles.

The Office of the Attorney General is charged with enforcing the provisions of the CPA. A person who violates this, or any provision of the CPA must pay a civil penalty of not more than \$2,000 per violation, with each transaction involved constituting a separate violation, not to exceed \$100,000.⁸ However, if the violation was committed against a senior citizen, the civil penalty may not exceed \$10,000 per violation.⁹

⁶ § 6-1-707(1)(c), C.R.S.

⁷ § 6-1-707(1)(c)(I) and (II), C.R.S.

⁸ § 6-1-112(1), C.R.S.

⁹ § 6-1-112(3), C.R.S.

If a person violates a court order issued pursuant to the CPA, that person must pay a civil penalty of not more than \$10,000 per violation.¹⁰

In addition, the CPA provides for private rights of action such that a consumer who is harmed by someone deceptively using a protected title may bring a civil action against the person deceptively using the protected title.¹¹ In addition to recovering costs and attorney's fees,¹² damages in such a case may be the greater of:¹³

- Actual damages;
- \$500; or
- Three times actual damages if it is established by clear and convincing evidence that the person deceptively claiming to be an occupational therapist engaged in bad faith conduct.

Importantly, neither the CPA nor any other state law addresses the practice or titles associated with occupational therapy assistants (OTAs).

Regulation in Other States

Of the 50 states, 49 regulate both occupational therapists (OTs) and OTAs. Colorado is the only state that does not regulate either.

Regulation among the states is relatively consistent in many respects. Thirty-four states specifically require licensure candidates to have graduated from an Accreditation Council for Occupational Therapy Education (ACOTE)-accredited educational program, while five states require candidates to be graduates of otherwise accredited programs. In the remaining states, the statute is either silent or requires candidates to have completed an educational program approved by that state's board.

All states require the passage of an examination and 41 of them explicitly require passage of the NBCOT's Occupational Therapist – Registered (OTR) Examination for OTs and passage of NBCOT's Certified Occupational Therapy Assistant (COTA) Examination for OTAs.

However, only 17 states require OT and OTA licensees to possess an OTR or COTA credential at the time of initial licensure.

Finally, 41 states have mandatory continuing education requirements ranging from 6 to 20 hours per year.

¹⁰ § 6-1-112(2), C.R.S.

¹¹ § 6-1-113(2), C.R.S.

¹² § 6-1-113(2)(b), C.R.S.

¹³ § 6-1-113(2)(a), C.R.S.

While there is some variation among the states, it appears as though the regulatory requirements governing OTs and OTAs are relatively consistent across the nation.

A more detailed summary of each state's regulatory requirements may be found in Appendix B on page 38.

Analysis and Recommendations

Public Harm

The first sunrise criterion asks:

Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety or welfare of the public, and whether the potential for harm is easily recognizable and not remote or dependent on tenuous argument.

In other words, regulation is justified only when the public is being harmed.

This necessarily forces a discussion addressing whether the public has been or is currently being harmed by the unregulated practice of occupational therapists (OTs) and occupational therapy assistants (OTAs).

To answer this question, representatives of the Department of Regulatory Agencies (DORA) requested that the Occupational Therapy Association of Colorado (Applicant) submit examples of specific instances where an OT or an OTA harmed the public. In response, the Applicant submitted one case involving an OTA and three cases involving OTs.

Additionally, a representative of DORA contacted the Office of Physical Therapy Licensure (PT Office) to ascertain whether any OT- or OTA-related complaints had been filed there. PT Office records revealed that three complaints had been filed, two of which involved the same individuals and circumstances as presented by the Applicant. These two cases appear as Case #2 and Case #4 in the discussion below.

Finally, during the course of this sunrise review, a representative of DORA interviewed several consumers of occupational therapy services. Two of these individuals felt that their respective OTs had harmed them. These stories are related in Case #6 and Case #7 in the discussion below.

All of the cases discussed below are summaries, often of information derived from multiple sources. Due to the medical nature of these cases and the privacy concerns of the individuals involved, DORA was unable to verify the accuracy or truthfulness of many of these cases. DORA's analysis appears in italicized text following each case summary.

Case #1 – March 2006

An Occupational Therapist – Registered (OTR) reported to the Applicant that a Certified Occupational Therapy Assistant (COTA) working in a Colorado pediatric clinic performed and interpreted the results of all evaluations and assessments, wrote reports, decided on appropriate treatment for patients and met with patients' families to explain treatment. The reporting OTR also alleged that test equipment at the clinic was substandard, which meant that any evaluations conducted on it would not be properly standardized. During the course of therapy, one child informed the COTA that the child was feeling ill, but the COTA insisted that they continue. The reporting OTR alleges that the child then complained that the child was afraid to return for future therapy. The reporting OTR found this practice to be unethical.

No actual harm is alleged in this case.

Case #2 – 2002 through 2004

At least three complaints were filed against this Colorado-based OTR with the PT Office and brought to the attention of the Applicant.

Case #2a - 2002

The OTR used the term “physiotherapy” on the OTR’s website. The PT Office sent the OTR a Letter of Caution instructing the OTR to cease using this term. The PT Office then forwarded the case to NBCOT, which dismissed the case for lack of evidence of a violation of its code of ethics.

No actual harm is alleged in this case.

Case #2b - 2004

The insurance carrier of one of the OTR’s patients reported to the PT Office that the OTR “was performing services which appear to be more physical therapy than occupational therapy.” The carrier’s allegations amounted to practicing physical therapy without a license. As of this writing, this case is pending in the Attorney General’s Office.

No actual harm is alleged in this case. However, if it is found that the OTR engaged in the unlicensed practice of physical therapy and that practice is found to have been beyond the ordinary scope of practice of an OT, then it is reasonable to conclude that, if regulation of OTs were in place, any such regulatory authority would have grounds to discipline the OTR for practicing outside the scope of an OT.

Case #2c – 2004

The same insurance carrier also alleged that the OTR was over billing by continuing to see the patient with little or no progress. The PT Office dismissed this case for lack evidence of a violation of the Physical Therapy Practice Act.

No actual harm is alleged in this case, although it is alluded to. Failure of a patient to make adequate progress, while a subjective determination, could constitute harm in the occupational therapy context. Part of the occupational therapy assessment process involves establishing attainable goals and timetables for attaining those goals. If a patient fails to meet those goals within acceptable timeframes, it is incumbent upon the OT to refer the patient back to the prescribing physician to determine the cause of the failure to progress.

A related matter involves financial harm. The Applicant maintains that when an OT continues to treat a patient who fails to make adequate progress, the OT harms that patient financially. While this argument has some merit, it is important to note the primary mission of regulation once it is imposed is to ensure minimal competency among practitioners. Billing issues typically fall outside the scope of this mission and, thus, are typically beyond the jurisdiction of regulatory authorities. This is justified by the additional fact that such issues can involve fraud, and regulation is generally ill suited to preventing or redressing fraud. While at least 13 practice acts regulating other professions and occupations in Colorado include, as grounds for discipline, insurance fraud, such is not the underlying basis for regulation and these provisions simply allow the regulatory authority to discipline those practitioners who have been found to have committed insurance fraud, not to make the determination as to whether fraud was committed.

Regardless, it was never established that the patient involved in this case actually failed to make adequate progress. As a result, this case can be considered nothing more than representing a potential for harm.

Case #3 - 2002

This case involved an OTR and a Certified Nurse Aide (CNA) at a Colorado hospital injuring a patient while attempting to transfer the patient from bed to a walker. According to the stipulated facts in the case, the patient fell during the transfer, resulting in an ankle fracture that required surgery. The patient sued the hospital and the OTR. The parties settled the case in June 2006 with no determination of liability or fault.

While the patient in this case suffered physical harm, no determination was made that the harm was attributable to the incompetence of the OTR.

Case #4 – 2004

The Director of Rehabilitation at a Denver-area clinic was also an OTR. The complaint filed with the PT Office alleged that the OTR signed another therapist's signature on billing charts; falsified documents to indicate that a patient continued to receive therapy after the patient had been discharged and instructed an aide to sign another therapist's initials to therapy records attesting to therapy that had not been rendered. The PT Office dismissed the case for lack of jurisdiction but referred the matter to the Colorado Department of Public Health and Environment's Health Facilities and Emergency Medical Services Division (CDPHE) and the U.S. Department of Health and Human Services' Office of the Inspector General (HHS). According to a representative of CDPHE, that agency did not act on the referral because of the timing of the facility's last survey and the date the complaint was received by CDPHE. As of this writing, however, HHS has an open investigation of the matter.

No physical harm is alleged in this case. Any financial harm resulting from this case would clearly be related to fraud, and regulation is generally ill suited to preventing or redressing fraud.

Case #5 – 2002

A physical therapist filed a complaint with the PT Office alleging that an OT was practicing physical therapy without a license. The PT Office dismissed the case for lack of evidence of a violation of the Physical Therapy Practice Act.

No actual harm is alleged in this case.

Case #6 – 2001

A Colorado resident had hand surgery in 2001 and subsequently received occupational therapy for eight months. This therapy consisted of little more than the OT massaging the hand. No exercises were ever prescribed. After the resident failed to make progress, another OT was seen. The resident now has limited use of the hand, but wonders whether appropriate occupational therapy services immediately following the surgery would have resulted in a more complete recovery.

The harm in this case is speculative, though unlike the previous cases, it was reported directly to DORA by the patient involved. Many factors can contribute to a lack of adequate progress, including, but not limited to, the competence of the OT, the healing ability of the individual patient and the patient's compliance with exercises and take-home assignments.

Case #7 – Date Unknown

A Colorado surgeon performed hand surgery on a Colorado resident. The surgeon referred the patient to OT #1. After adequate progress was not made, the same surgeon performed a second surgery. This time, the surgeon referred the patient to OT #2, who worked in the surgeon's office. The patient went to OT #2 four times. On each occasion, OT #2 failed to perform in-office therapy and failed to provide take-home exercises. Rather, OT #2 simply told the patient to work on the hand at home. Frustrated, the patient returned to OT #1 and now has full use of the hand. The patient expressed to a representative of DORA that had regulation been in place, the patient would have filed an official complaint against OT #2.

The harm in this case is speculative since it involves an allegation of failure to make adequate progress. Many factors can contribute to a lack of adequate progress, including, but not limited to, the competence of the OT, the healing ability of the individual patient and the patient's compliance with exercises and take-home assignments.

These seven cases fail to clearly demonstrate that the unregulated practice of occupational therapy harms the public. Regardless, DORA looked to other sources for evidence of harm.

Between 1987 and March 31, 2006, a span of 19 years, NBCOT received 20 complaints regarding Colorado-based OTRs, 3 involving Colorado-based COTAs and 6 involving Colorado-based certification applicants.¹⁴ These 29 complaints resulted in 1 censure, 1 reprimand and 24 findings of “no violation.”¹⁵ The remaining cases were still open at the time of NBCOT’s report. In short, NBCOT has found it appropriate to discipline only two practitioners in almost 20 years.

Additionally, in a letter to DORA dated July 10, 2006, the American Occupational Therapy Association provided the following examples of harm:

- Inaccurate documentation and quality of care issues against an OT in a skilled nursing facility. This OT was also allegedly billing for treatment that was not actually provided.
- Several complaints and calls about the same Colorado practitioner who allegedly harmed clients and provided (and billed for) excessive units of therapy, significantly beyond the usual standard of practice for that diagnosis.
- Complaint by a Colorado therapist against another practitioner about incompetence in ordering costly and incorrect (and unusable by the client) equipment (power wheelchair) which then had to be corrected by reordering at considerable expense.
- Complaint by a Colorado OT in a pediatric private practice against a colleague who engaged in unethical practices such as refusing to follow standard practice guidelines and who provided therapy considerably beyond what the child required.

Finally, DORA also contacted staff at the Colorado Board of Medical Examiners (BME) and the Attorney General’s Office (AGO) since these seem to be agencies that consumers might logically contact to complain about an OT or an OTA, even though neither has jurisdiction over the practice of OTs or OTAs.

Staff at the BME reported that no complaints involving either OTs or OTAs had been received.

Recall that the AGO enforces the Colorado Consumer Protection Act, which protects a number of titles relating to OTs. A representative of the AGO reported that that agency has received only one complaint against an OT, and that complaint involved a billing dispute.

¹⁴ Letter from NBCOT dated April 19, 2006.

¹⁵ Letter from NBCOT dated April 19, 2006.

Throughout the course of this sunrise review, numerous individuals, including representatives of DORA, attempted to identify specific instances in which an OT or an OTA harmed a member of the public. As the cases and statistics reported above indicate, however, all of the harm that was identified was due to fraudulent activity, speculative or could not be tied to the incompetence of the OT involved. Indeed, only one case was presented that involved an OTA and absolutely no harm was alleged in that case.

In the end, then, there is insufficient evidence of harm to conclude that the public will benefit from the regulation of OTs, OTAs or both.

Need for Regulation

The second sunrise criterion asks:

Whether the public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional or occupational competence.

Although this report concludes that the unregulated practice of OTs and OTAs does not harm the public, the second criterion must nevertheless be addressed.

In short, the second sunrise criterion asks whether the harm identified by the first sunrise criterion was caused by incompetence on the part of practitioners. If this question can be answered affirmatively, it would represent an additional argument in favor of regulation, which is designed to ensure competency.

However, in the case of OTs and OTAs, this question must be answered in the negative. The vast majority of the harm identified under the first criterion was financial in nature. While this is not necessarily fatal to a sunrise analysis, it is in this case.

The financial harm caused by the OTs identified in this sunrise report was the result of alleged fraud, primarily in the form of billing for unnecessary or unsuccessful treatment or billing for services that were not rendered. While such practices certainly cause financial harm, competency is not the issue. Rather, unethical or illegal business practices are the true cause of the harm.

As a result, the second question must be answered negatively. The public cannot reasonably be expected to benefit from an assurance of competency because the harm caused by OTs is not related to the competence or incompetence of the practitioners involved.

In the case of OTAs, since absolutely no harm was identified, there is no question that the public will not benefit from an assurance of competency because OTAs do not appear to harm the public at all.

Alternatives to Regulation

The third sunrise criterion asks:

Whether the public can be adequately protected by other means in a more cost-effective manner.

Since neither OTs nor OTAs cause sufficient harm to justify regulation, and since competency of such practitioners is not an issue, there are no cost-effective alternatives to lack of regulation.

Again, however, the third sunrise criterion must be addressed and one alternative is readily apparent – registration. Two types of registration systems seem viable.

First, since the harm identified by this sunrise review is insufficient to merit any kind of strict practice restriction, the state could simply require any individual who practices occupational therapy to register with the state. This would be similar to the unlicensed psychotherapist registration system. Unlicensed psychotherapists need only notify the state that they are practicing as such, and then are held accountable if they engage in any of the activities that are enumerated in statute as grounds for discipline. No demonstration of competency, however, is every required of an unlicensed psychotherapist.

Such a model could work for OTs. Since competency does not seem to be the cause of the harm, such as it is, caused by OTs, a demonstration of competency as a precondition to practice is unjustified. Similarly, basic grounds for discipline could be developed that would then provide the state with a mechanism for sanctioning practitioners who actually cause harm.

Aside from no regulation, this option represents the least restrictive and least expensive alternative to the licensure system proposed by the Applicant.

The second alternative is more restrictive and more costly than the first option, but is still less restrictive and less costly than the Applicant's proposal. Under this option, the state could condition the ability of OTs to practice on OTs obtaining the OTR credential. Those individuals who seek to practice in Colorado would then be required to obtain the OTR credential and then register with the state and only those registered with the state would be allowed to practice.

Any attempt to regulate OTAs should be resisted. Despite the attempts of the Applicant and representatives of DORA, no evidence could be found to support the proposition that OTAs harm the public.

Conclusion

During the course of this sunrise review, a representative of DORA interviewed numerous individuals, including practicing OTs, patients of OTs, employers of OTs, physicians who refer their patients to OTs, hospital administrators and other healthcare professionals. Almost without exception, these individuals indicated that OTs deserve to be licensed.

However, whether a profession or occupation either desires or deserves to be regulated is irrelevant to a sunrise analysis. Indeed, the sunrise process itself was implemented and designed to provide the General Assembly with objective information to determine whether an unregulated profession or occupation needs to be regulated in order to protect the public.

Without question, the services rendered by OTs are valuable and essential to the patients they serve. The range of areas in which OTs assist their patients is tremendous. Depending upon their training and areas of expertise, OTs work with patients on physical, mental and emotional recovery and physical, mental and emotional adaptation. This can mean items as simple as relearning how to write or how to balance a checkbook after suffering a stroke, getting around the kitchen after breaking a hip, learning how to drive with limited vision or missing appendages or determining safe ways to do laundry after suffering an injury that causes chronic equilibrium. It can also mean items as complicated as relearning how to read or learning how to swallow.

Nothing can or should diminish the value of the services that OTs routinely and regularly offer to their patients. Occupational therapy allows patients to engage in the occupation of life, and that, on its own, is a commendable thing.

However, none of this means that OTs, and especially OTAs, need to be regulated in order to protect the public. Considering the scope of services rendered by OTs and OTAs, if there were a high potential for harm, it is reasonable to conclude that evidence of such harm would be readily available and easily verifiable. This is not the case.

Despite the concerted efforts of the Applicant and representatives of DORA to find harm caused by OTs and OTAs, very little was found, and the harm that was found tends to center on unethical business practices, not competency.

Regulation is a poor vehicle by which to address unethical business practices or fraud. The only exception to this general rule may be when the regulation is narrowly tailored to address such behavior and nothing else.

In the case of OTs and OTAs, however, even the alleged financial harm that has been identified is insufficient to justify state intervention in the marketplace. Regulation would only serve to limit the supply of OTs and OTAs, thus driving up the price of their services. Due to the low level of harm caused by OTs and OTAs, this would result in little or no additional public protection. Thus, regulation is unjustified.

Recommendation – Do not regulate occupational therapists or occupational therapy assistants.

Appendix A – Model Occupational Therapy Practice Act

MODEL OCCUPATIONAL THERAPY PRACTICE ACT

AOTA
State Policy Department
1-800-SAY-AOTA ext. 2021 (members)
1-301-652-6611 ext. 2021 (non-members)

**MODEL OCCUPATIONAL THERAPY PRACTICE ACT
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MODEL OCCUPATIONAL THERAPY PRACTICE ACT

The Model Occupational Therapy Practice Act has been developed by the State Policy Department of the American Occupational Therapy Association, Inc. for use by affiliate organizations or state regulatory boards interested in developing or revising legislation to regulate the practice of Occupational Therapy. The Model Practice Act must be reviewed and carefully adapted to comply with a State's legislative requirements and practices. It must also be adapted to reflect a State's administrative and regulatory laws and other legal procedures.

The Model Practice Act leaves blanks or indicates alternatives in brackets when further detail needs to be considered or when adaptations are especially necessary. States may need to modify the term "licensure" if registration or certification is the method of regulation for Occupational Therapists or Occupational Therapy Assistants.

Article I. General Provisions

1.01 Title [Title should conform to State requirements. The following is suggested for appropriate adaptation.]
An Act providing for the licensure of Occupational Therapists and Occupational Therapy Assistants; for a board of Occupational Therapy practice and its powers and duties; and for related purposes.

1.02 Short Title

This Act shall be known and may be cited as the "Occupational Therapy Practice Act".

1.03 Legislative Intent and Purpose

The Legislature finds and declares that the Occupational Therapy Practice Act is enacted to safeguard the public health, safety, and welfare, to protect the public from incompetent, unethical or unauthorized persons, to assure a high level of professional conduct on the part of Occupational Therapists and Occupational Therapy Assistants, and to assure the availability of high quality Occupational Therapy services to persons in need of such services. It is the purpose of this Act to provide for the regulation of persons offering themselves as Occupational Therapists or as Occupational Therapy Assistants, or performing services that constitute Occupational Therapy.

1.04 Definitions

- (1) "Act" means the Occupational Therapy Practice Act.
- (2) "Aide" means a person who is not licensed by the Board and who provides supportive services to Occupational Therapists and Occupational Therapy Assistants. An Aide shall function under the guidance and responsibility of the licensed Occupational Therapist and may be supervised by the Occupational Therapist or an Occupational Therapy Assistant for specifically selected routine tasks for which the Aide has been trained and has demonstrated competence. The Aide shall comply with supervision requirements developed by the Board which are consistent with prevailing professional standards.
- (3) "Association" means the _____ State Occupational Therapy Association.
- (4) "Board" means the _____ State Board of Occupational Therapy.
- (5) "Good Standing" means the individual has not been disciplined by a recognized professional certifying or standards setting body or State licensing entity within five years prior to application or renewal of license.
- (6) "The Practice of Occupational Therapy" means the therapeutic use of everyday life activities (occupations) with individuals or groups for the purpose of participation in roles and situations in home, school, workplace, community, and other settings. Occupational therapy services are provided for the purpose of promoting health and wellness and to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Occupational therapy addresses the physical, cognitive, psychosocial, sensory, and other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect health, well-being, and quality of life.

The practice of occupational therapy includes:

- (a) Methods or strategies selected to direct the process of interventions such as:
 1. Establishment, remediation, or restoration of a skill or ability that has not yet developed or is impaired.
 2. Compensation, modification, or adaptation of activity or environment to enhance performance.
 3. Maintenance and enhancement of capabilities without which performance in everyday life activities would decline.

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4. Health promotion and wellness to enable or enhance performance in everyday life activities.
 5. Prevention of barriers to performance, including disability prevention.
- (b) Evaluation of factors affecting activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, leisure, and social participation, including:
1. Client factors, including body functions (such as neuromuscular, sensory, visual, perceptual, cognitive) and body structures (such as cardiovascular, digestive, integumentary, genitourinary systems).
 2. Habits, routines, roles, and behavior patterns.
 3. Cultural, physical, environmental, social, and spiritual contexts and activity demands that affect performance.
 4. Performance skills, including motor, process, and communication/interaction skills.
- (c) Interventions and procedures to promote or enhance safety and performance in activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, leisure, and social participation, including:
1. Therapeutic use of occupations, exercises, and activities.
 2. Training in self-care, self-management, home management, and community/work reintegration.
 3. Development, remediation, or compensation of physical, cognitive, neuromuscular, sensory functions and behavioral skills.
 4. Therapeutic use of self, including one's personality, insights, perceptions, and judgments, as part of the therapeutic process.
 5. Education and training of individuals, including family members, caregivers, and others.
 6. Care coordination, case management, and transition services.
 7. Consultative services to groups, programs, organizations, or communities.
 8. Modification of environments (home, work, school, or community) and adaptation of processes, including the application of ergonomic principles.
 9. Assessment, design, fabrication, application, fitting, and training in assistive technology, adaptive devices, and orthotic devices, and training in the use of prosthetic devices.
 10. Assessment, recommendation, and training in techniques to enhance functional mobility, including wheelchair management.
 11. Driver rehabilitation and community mobility.
 12. Management of feeding, eating, and swallowing to enable eating and feeding performance.
 13. Application of physical agent modalities, and use of a range of specific therapeutic procedures (such as wound care management; techniques to enhance sensory, perceptual, and cognitive processing; manual therapy techniques) to enhance performance skills.
- (7) "Occupational Therapist" means a person licensed to practice Occupational Therapy under this Act.
- (8) "Occupational Therapy Assistant" means a person licensed to assist in the practice of Occupational Therapy under this Act and who shall work under the supervision of an Occupational Therapist.
- (9) "Person" means any individual, partnership, unincorporated organization, limited liability entity, or corporate body, except that only an individual may be licensed under this Act.

Article II. Board of Occupational Therapy

2.01 Board Created

There is hereby established the _____ Board of Occupational Therapy hereafter referred to as the Board, which shall be responsible for the implementation and enforcement of this Act.

2.02 Board Composition

- (1) The Board shall be composed of at least five individuals appointed by the governor.
- (2) At least two members shall be licensed as Occupational Therapists in this State.
- (3) One member shall be an Occupational Therapy Assistant licensed in this State.
- (4) At least two members ("public members") shall be representatives of the public with an interest in the rights of consumers of health services.

2.03 Qualifications

- 1 (1) Public members must reside in this State for at least five years immediately preceding their appointment.
2 (2) Occupational Therapy and Occupational Therapy Assistant members must be licensed consistent with state law
3 and reside in the State for at least five years and have been engaged in rendering Occupational Therapy services
4 to the public, teaching, consultation, or research in Occupational Therapy for at least five years, including for
5 the three years immediately preceding their appointment.
6 (3) No member shall be a current officer, board member or employee of a statewide organization established for the
7 purpose of advocating the interests of persons licensed under this Act.
8

9 2.04 Appointments

- 10 (1) Within 90 days after the enactment of this Act, the first Board shall be appointed by the Governor from a list of
11 names submitted by the State Occupational Therapy Association and from nominations submitted by interested
12 organizations or persons in the State.
13 (2) Each subsequent appointment shall be made from recommendations submitted by the State Occupational
14 Therapy Association, which shall submit at least three names per appointment, or from recommendations
15 submitted by other interested organizations or persons in the State.
16

17 2.05 Terms

- 18 (1) Appointments to the Board shall be for a period of three years, except for the initial appointments which shall
19 be for staggered terms of one, two and three years. Members shall serve until the expiration of the term for
20 which they have been appointed or until their successors have been appointed and are deemed to be qualified to
21 serve on the Board. No member may serve more than two consecutive three-year terms or six consecutive years.
22 (2) Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until
23 successors are appointed, except for the first appointed members who shall serve through the last calendar day
24 of the year in which they are appointed, before commencing the terms prescribed by this section.
25

26 2.06 Vacancies

27 In the event of a vacancy in the office of a member of the Board other than by expiration of a term, the Governor
28 shall appoint a qualified person to fill the vacancy for the unexpired term.
29

30 2.07 Removal of Board Members

31 The Governor or the Board may remove a member of the Board for incompetence, professional misconduct, conflict
32 of interest, or neglect of duty after written notice and opportunity for a hearing. The Board shall be responsible for
33 defining the standards for removal through regulation.
34

35 2.08 Compensation of Board Members

36 Members of the Board shall receive no compensation for their services, but shall be entitled to reasonable travel and
37 other expenses incurred in the execution of their powers and duties.
38

39 2.09 Administrative Provisions

- 40 (1) The Board may employ and discharge an Administrator and such officers and employees as it deems necessary,
41 and shall determine their duties in accordance with [applicable State statute].
42 (2) [This subsection should be used to include administrative detail covering revenues and expenditures,
43 authentication and preservation of documents, promulgation of rules and regulations, etc., in accordance with
44 prevailing State practice, and to the extent that such detail is not already taken care of in State laws of general
45 applicability.]
46

47 2.10 Meetings

- 48 (1) The Board shall, at the first meeting of each calendar year, select a chairperson and to conduct other appropriate
49 business.
50 (2) At least 3 additional meetings shall be held before the end of each calendar year.
51 (3) Other meetings, including telephone and other telecommunication conference meetings, may be convened at the
52 call of the chairperson or the written request of two or more Board members.
53 (4) A majority of the members of the Board shall constitute a quorum for all purposes. The quorum must include at
54 least one Occupational Therapist.

- 1 (5) The Board shall conduct its meetings and keep records of its proceedings in accordance with the provisions of
2 the Administrative Procedure Act of this State.
3 (6) All Board meetings and hearings shall be open to the public. The Board may, in its discretion and according to
4 law, conduct any portion of its meetings or hearings in executive session, closed to the public.
5 (7) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear
6 before the Board and to speak on any issue under Board jurisdiction.
7

8 **2.11 Powers and Duties**

- 9 (1) The Board shall in accordance with the Administrative Procedures Act [or other comparable statute] perform all
10 lawful functions consistent with this Act, or otherwise authorized by State law including that it shall:
11 (a) Administer, coordinate, and enforce the provisions of this Act;
12 (b) Evaluate applicants' qualifications for licensure in a timely manner;
13 (c) Approve an examination for Occupational Therapists and an examination for Occupational Therapy
14 Assistants and establish standards for acceptable performance;
15 (d) Establish licensure fees and issue, renew, or deny licenses;
16 (e) Issue subpoenas, examine witnesses, and administer oaths;
17 (f) Investigate allegations of practices violating the provisions of this Act;
18 (g) Make, adopt, amend, and repeal such rules as may be deemed necessary by the Board from time to time for
19 the proper administration and enforcement of this Act. The Board may specify appropriate training for the
20 use of physical agent modalities;
21 (h) Conduct hearings and keep records and minutes;
22 (i) Establish a system for giving the public, including its regulated profession, reasonable advance notice of all
23 open Board and committee meetings. Emergency meetings, including telephone or other
24 telecommunication conference meetings, shall be exempt from this public notice requirement;
25 (j) Communicate disciplinary actions to relevant State and federal authorities and to other State OT licensing
26 authorities; and
27 (k) Publish at least annually Board rulings, opinions, and interpretations of statutes or rules in order to guide
28 persons regulated by this Act.
29 (2) No member of the Board shall be civilly liable for any act failure to act performed in good faith in the
30 performance of his or her duties as prescribed by law.
31

32 **2.12 Training of New Members**

33 The Board shall conduct and new members shall attend a training program designed to familiarize new members
34 with their duties. A training program for new members shall be held as needed.
35

36 **Article III. Licensing**

37 **3.01 Unlawful Practice**

- 38 (1) No Person shall practice Occupational Therapy or assist in the practice of Occupational Therapy or provide
39 Occupational Therapy services or hold himself or herself out as an Occupational Therapist or Occupational
40 Therapy Assistant, or as being able to practice Occupational Therapy or assist in the practice of Occupational
41 Therapy or provide Occupational Therapy services in this State unless he or she is licensed under the provisions
42 of this Act.
43 (2) It is unlawful for any person not licensed as an Occupational Therapist in this State or whose license has been
44 suspended or revoked to use in connection with his or her name or place of business in this State, the words
45 "Occupational Therapist", "licensed Occupational Therapist", or use any word, title, letters, or designation that
46 implies that the person is an Occupational Therapist.
47 (3) It is unlawful for any person not licensed as an Occupational Therapy Assistant in this State or whose license
48 has been suspended or revoked to use in connection with his or her name or place of business in this State, the
49 words "Occupational Therapy Assistant", "licensed Occupational Therapy Assistant", or use any word, title,
50 letters, or designation that implies that the person is an Occupational Therapy Assistant.
51

52 **3.02 Exemptions**

53 This Act does not prevent or restrict the practice, services or activities of:

- 54 (1) Any person licensed or otherwise regulated in this State by any other law from engaging in the authorized scope
55 of practice of the profession or occupation for which he or she is licensed.

- 1 (2) Any person pursuing a course of study leading to a degree or certificate in Occupational Therapy at an
- 2 accredited educational program, if that person is designated by a title which clearly indicates his or her status as
- 3 a student and if he or she acts under appropriate instruction and supervision.
- 4 (3) Any person fulfilling the supervised fieldwork experience requirements of Section 3.03 of this Act, if the
- 5 experience constitutes a part of the experience necessary to meet the requirement of that section and he or she
- 6 acts under appropriate supervision.
- 7 (4) Any person performing Occupational Therapy services in the State, if these services are performed for no more
- 8 than 30 days in a calendar year in association with an Occupational Therapist licensed under this act if:
- 9 (a) The out-of-state person is licensed under the laws of another State which has licensure requirements at least
- 10 as stringent as the requirements of this Act, or
- 11 (b) The out-of-state person successfully passed the entry-level certification examination requirement described
- 12 in Section 3.04.

13
 14 3.03 Requirements for Licensure
 15 An applicant applying for a license as an Occupational Therapist or as an Occupational Therapy Assistant shall file a
 16 written application provided by the Board, demonstrating to the satisfaction of the Board that the applicant
 17 (1) Is in good standing as defined in Section 1.04;
 18 (2) Has successfully completed the academic requirements of an educational program for Occupational Therapists
 19 or Occupational Therapy Assistants that is accredited by the American Occupational Therapy Association's
 20 Accreditation Council for Occupational Therapy Education (ACOTE) or predecessor organizations;
 21 (3) Has successfully completed a period of supervised fieldwork experience required by the recognized educational
 22 institution where the applicant met the academic requirements described in Section 3.03 (2).
 23 (a) An Occupational Therapist must complete a minimum of twenty-four weeks of supervised fieldwork
 24 experience or satisfy any generally recognized past standards that identified minimum fieldwork
 25 requirements at the time of graduation.
 26 (b) An Occupational Therapy Assistant must complete a minimum of sixteen weeks of supervised fieldwork
 27 experience or satisfy any generally recognized past standards that identified minimum fieldwork
 28 requirements at the time of graduation; and
 29 (4) Has passed an examination approved by the Board as provided for in Section 3.04 of this Act.

30
 31 3.04 Examination
 32 (1) A person satisfying the requirements of Section 3.03 excluding Subsection (4), may apply for examination.
 33 Internationally trained applicants shall comply with section 3.10. A person who fails an examination may apply
 34 for reexamination upon payment of the prescribed fee, consistent with regulations promulgated by the Board.
 35 (2) Each applicant for licensure shall be examined by written or computerized examination administered by the
 36 National Board for Certification in Occupational Therapy, Inc. (NBCOT) or by another nationally recognized
 37 credentialing body as approved by the Board, to test his or her knowledge of the basic and clinical sciences
 38 relating to Occupational Therapy, Occupational Therapy theory and practice, and professional ethics and
 39 conduct including the applicant's professional skills and judgment in the utilization of Occupational Therapy
 40 techniques and methods, and such other subjects as the Board may require to determine the applicant's fitness to
 41 practice.
 42 (3) Applicants for licensure shall be examined at a time and place and under such supervision as the Board may
 43 require. Examinations shall be given at least twice each year at such places as the Board may determine. The
 44 Board shall give reasonable public notice of these examinations in accordance with its rules and regulations.
 45

46 3.05 License Endorsement
 47 (1) The Board may grant a license to any person who, prior to the effective date of this Act, passed the entry-level
 48 certification examination requirement described in 3.03.
 49 (2) The Board may grant a license to any applicant who presents proof of current licensure as an Occupational
 50 Therapist or Occupational Therapy Assistant in another State, the District of Columbia, or any territory or
 51 jurisdiction of the United States which requires standards for licensure determined by the Board to be at least as
 52 stringent as the requirements for licensure in this Act.
 53

54 3.06 Limited Permit

- 1 (1) A limited permit to practice Occupational Therapy may be granted to a person who has completed the academic
 2 and fieldwork requirements for Occupational Therapists of this Act and has not yet taken or received the results
 3 of the entry-level certification examination. This permit shall be valid for ___ months and shall allow the
 4 person to practice Occupational Therapy under the direction and appropriate supervision of an Occupational
 5 Therapist licensed under this Act. This permit shall expire when the person is issued a license under Section
 6 3.03 or if the person is notified that he or she did not pass the examination. The limited permit may not be
 7 renewed.
- 8 (2) A limited permit to assist in the practice of Occupational Therapy may be granted to a person who has
 9 completed the academic and fieldwork requirements for Occupational Therapy Assistants of this Act and has
 10 not yet taken or received the results of the entry-level certification examination. This permit shall be valid for
 11 ___ months and shall allow the person to practice Occupational Therapy under the direction and appropriate
 12 supervision of an Occupational Therapist licensed under this Act. This permit shall expire when the person is
 13 issued a license under Section 3.03 or if the person is notified that he or she did not pass the examination. The
 14 limited permit may not be renewed.

15
 16 3.07 Temporary License

17 An applicant who is currently licensed and in good standing to practice in another jurisdiction and meets the
 18 requirements for licensure by endorsement may obtain a temporary license while the application is being processed
 19 by the Board.

20
 21 3.08 Issuance of License

22 The Board shall issue a license to any person who meets the requirements of this Act, as described in sections 3.03
 23 or 3.10, upon payment of the prescribed license fee as described in Section 3.11.

24
 25 3.09 Renewal of License

- 26 (1) Any license issued under this Act shall be subject to annual [biennial] renewal and shall expire unless renewed
 27 in the manner prescribed by the rules and regulations of the Board.
- 28 (2) The Board may prescribe by rule continuing competence requirements as a condition for renewal of licensure.
- 29 (3) The Board may provide for the late renewal of a license upon the payment of a late fee in accordance with its
 30 rules and regulations, but no late renewal of a license may be granted more than five years after its expiration.
- 31 (4) Upon request, the Board shall grant inactive status to a licensee who maintains continuing competence
 32 requirements established by the Board, and
- 33 (a) does not practice during such "inactive" period as an Occupational Therapist or an Occupational Therapy
 34 Assistant, and
- 35 (b) does not during such "inactive" period hold him or herself out as an Occupational Therapist or an
 36 Occupational Therapy Assistant.
- 37 (5) Licensees are granted a grace period of 30 days after the expiration of their licenses in which to renew
 38 retroactively if they meet statutory requirements for renewal and pay to the Board the renewal fee and any late
 39 fee set by the Board.
- 40 (6) A suspended license is subject to expiration and may be renewed as provided in this Act, but such renewal shall
 41 not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed
 42 activity, or in any other conduct or activity in violation of the order of judgment by which the license was
 43 suspended.
- 44 (7) A license revoked on disciplinary grounds is subject to expiration as provided in this Act, but it may not be
 45 renewed. The licensee, as a condition of reinstatement, shall meet license requirements for new licensees and
 46 shall pay a reinstatement fee set by the Board.

47
 48 3.10 Internationally Educated Applicants

49 Occupational Therapists trained outside of the United States and its territories shall satisfy the examination
 50 requirements of Section 3.03 (4). The Board shall require these applicants to meet examination eligibility
 51 requirements as established by the credentialing body recognized by the Board and which are substantially equal to
 52 those contained in section (3.03) before taking the examination.

53
 54 3.11 Fees

- 1 (1) Consistent with the Administrative Procedures Act, the Board shall prescribe, and publish in the manner
2 established by its rules, fees in amounts determined by the Board for the following:
3 (a) Initial license fee
4 (b) Renewal of license fee
5 (c) Late renewal fee
6 (d) Limited permit fee
7 (e) Temporary license fee
8 (f) Any other fees it determines appropriate.
9 (2) These fees shall be set in such an amount as to reimburse the State, to the extent feasible, for the cost of the
10 services rendered.

11 **Article IV. Disciplinary Action**

12 **4.01 Grounds for Disciplinary Action**

13 The Board may take action against a licensee as described in Section 4.05 for unprofessional conduct including:

- 14 (1) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
15 (2) Being guilty of unprofessional conduct as defined by the rules established by the Board, or violating the Code
16 of Ethics adopted and published by the Board;
17 (3) Being convicted of a crime in any court except for minor offenses;
18 (4) Violating any lawful order, rule, or regulation rendered or adopted by the Board;
19 (5) Violating any provision of this Act (or regulations pursuant to this Act);
20 (6) Practicing beyond the scope of the practice of Occupational Therapy;
21 (7) Providing substandard care by an Occupational Therapist due to a deliberate or negligent act or failure to act
22 regardless of whether actual injury to the patient is established;
23 (8) Providing substandard care by an Occupational Therapy Assistant, including exceeding the authority to perform
24 components of intervention selected and delegated by the supervising Occupational Therapist regardless of
25 whether actual injury to the patient is established;
26 (9) Knowingly delegating responsibilities to an individual who does not have the skills or abilities to perform those
27 responsibilities;
28 (10) Failing to provide appropriate supervision to an Occupational Therapy Assistant or Aide in accordance with this
29 Act and Board rules;
30 (11) Practicing as an Occupational Therapist or Occupational Therapy Assistant when competent services to
31 recipients may not be provided due to the therapists own physical or mental impairment;
32 (12) Having had an Occupational Therapist or Occupational Therapy Assistant license revoked or suspended, other
33 disciplinary action taken, or an application for licensure refused, revoked or suspended by the proper authorities
34 of another State, territory or country, irrespective of intervening appeals and stays;
35 (13) Engaging in sexual misconduct. For the purposes of this paragraph, sexual misconduct includes:
36 (a) Engaging in or soliciting sexual relationships, whether consensual or non-consensual, while an
37 Occupational Therapist or Occupational Therapy Assistant/patient relationship exists with that person.
38 (b) Making sexual advances, requesting sexual favors or engaging in physical contact of a sexual nature with
39 patients or clients.
40 (14) Aiding or abetting a person who is not licensed as an Occupational Therapist or Occupational Therapy Assistant
41 in this State and who directly or indirectly performs activities requiring a license.
42
43

44 **4.02 Complaints**

- 45 (1) Any person may file a complaint with the Board against any licensed Occupational Therapist or licensed
46 Occupational Therapy Assistant in the State charging that person with having violated the provisions of this
47 Act.
48 (2) The complaint shall specify charges in sufficient detail so as to disclose to the accused fully and completely the
49 alleged acts of misconduct for which he or she is charged.
50 (3) Upon receiving a complaint, the Board shall notify the licensee of the complaint and request a written response
51 from the licensee.
52 (4) The Board shall keep an information file about each complaint filed with the Board. The information in each
53 complaint file shall contain complete, current and accurate information including, but not limited to:
54 (a) all persons contacted in relation to the complaint;
55 (b) a summary of findings made at each step of the complaint process;

- 1 (c) an explanation of the legal basis and reason for a complaint that is dismissed; and
2 (d) other relevant information.

3
4 4.03 Due Process

- 5 (1) Before the Board imposes disciplinary actions, it shall give the individual against whom the action is
6 contemplated an opportunity for a hearing before the Board.
7 (2) The Board shall give notice and hold a hearing in accordance with the State's Administrative Procedures Act [or
8 other comparable statute].
9 (3) The individual shall be entitled to be heard in his or her defense, alone or with counsel, and may produce
10 testimony and testify in his or her own behalf, and present witnesses, within reasonable time limits.
11 (4) Any person aggrieved by a final decision of the Board may appeal in accordance with the Administrative
12 Procedures Act [or other comparable statute].

13
14 4.04 Investigation

15 To enforce this Act, the Board is authorized to:

- 16 (1) Receive complaints filed against licensees and conduct a timely investigation.
17 (2) Conduct an investigation at any time and on its own initiative without receipt of a written complaint if the
18 Board has reason to believe that there may be a violation of this Act.
19 (3) Issue subpoenas to compel the attendance of any witness or the production of any documentation relative to a
20 case.
21 (4) For good cause, take emergency action ordering the summary suspension of a license or the restriction of the
22 licensee's practice or employment pending proceedings by the Board.
23 (5) Appoint hearing officers authorized to conduct hearings. Hearing officers shall prepare and submit to the Board
24 findings of fact, conclusions of law and an order that shall be reviewed and voted on by the Board.
25 (6) Require a licensee to be examined in order to determine the licensee's professional competence or resolve any
26 other material issue arising from a proceeding.
27 (7) If the Board finds that the information received in a complaint or an investigation is not of sufficient seriousness
28 to merit disciplinary action against a licensee, it may take the following actions:
29 (a) Dismiss the complaint if the board believes the information or complaint is without merit or not within the
30 purview of the Board. The record of the complaint shall be expunged from the licensee's record.
31 (b) Issue a confidential advisory letter to the licensee. An advisory letter is non-disciplinary and notifies a
32 licensee that, while there is insufficient evidence to begin disciplinary action, the Board believes that the
33 licensee should be ware of an issue.
34 (8) Take other lawful and appropriate actions within its scope of functions and implementation of this Act.

35
36 4.05 Penalties

- 37 (1) Consistent with the Administrative Procedures Act, the Board may impose separately, or in combination, any of
38 the following disciplinary actions on a licensee as provided in this Act:
39 (a) Refuse to issue or renew a license;
40 (b) Suspend or revoke a license;
41 (c) Impose probationary conditions;
42 (d) Issue a letter of reprimand or concern;
43 (e) Require restitution of fees;
44 (f) Impose a fine not to exceed \$ ____, which deprives the licensee of any economic advantage gained by the
45 violation and which reimburses the Board for costs of the investigation and proceeding;
46 (g) Impose practice and/or supervision requirements;
47 (h) Require licensees to participate in continuing competence activities specified by the Board;
48 (i) Accept a voluntary surrendering of a license; or
49 (j) Take other appropriate corrective actions including advising other parties as needed to protect their
50 legitimate interests and to protect the public.
51 (2) If the Board imposes suspension or revocation of license, application may be made to the Board for
52 reinstatement, subject to the limits of section 3.09 (license renewal). The Board shall have discretion to accept
53 or reject an application for reinstatement and may require an examination or other satisfactory proof of
54 eligibility for reinstatement.
55 (3) If a licensee is placed on probation, the Board may require the license holder to:

-
- 1 (a) Report regularly to the Board on matters that are the basis of probation;
2 (b) Limit practice to the areas prescribed by the Board;
3 (c) Continue to review continuing competence activities until the license holder attains a degree of skill
4 satisfactory to the Board in those areas that are the basis of the probation; or
5 (d) Provide other relevant information to the Board.
6
- 7 **4.06 Injunction**
8 (1) The Board is empowered to apply for relief by injunction, without bond, to restrain any person, partnership, or
9 corporation from any threatened or actual act or practice, which constitutes an offense against this Act. It shall
10 not be necessary for the Board to allege and prove that there is no adequate remedy at law in order to obtain the
11 relief requested. The members of the Board shall not be individually liable for applying for such relief.
12 (2) If a person other than a licensed Occupational Therapist or Occupational Therapy Assistant threatens to engage
13 in or has engaged in any act or practice which constitutes an offense under this Act, a district court of any
14 county on application of the Board may issue an injunction or other appropriate order restraining such conduct.
15
- 16 **Article V. Other**
17 **5.01 Severability**
18 (1) If a part of this Act is held unconstitutional or invalid, all valid parts that are severable from the invalid or
19 unconstitutional part shall remain in effect.
20 (2) If a part of this Act is held unconstitutional or invalid in one or more of its applications, the part shall remain in
21 effect in all constitutional and valid applications that are severable from the invalid applications.
22
- 23 **5.02 Effective Date**
24 (1) The Act, except for Section 3.01, shall take effect ninety days (90) days after enactment [unless State practice or
25 requirements require another effective date].
26 (2) Section 3.01 of this Act shall take effect 180 days after enactment.
27

Appendix B – Regulation in Other States

State	Who is Regulated?		Qualifications				Certifications		
	Occupational Therapists	Occupational Therapy Assistants	Educational Requirements	Experience Requirements	Examination Requirements	Mandatory Continuing Education Requirements	Require OTR-Occupational Therapist Registered	Require COTA-Certified Occupational Therapy Assistants	
Alabama	X	X	OT & OTA: Completion of an accredited program.	None	NBCOT	OT: 30 hours biennially OTA: 20 hours biennially	X	X	
Alaska	X	X	OT & OTA: Graduation from ACOTE-approved school.	OT: six months OTA: two months	NBCOT	OT: 12 hours annually OTA: six hours annually	X	X	
Arizona	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT: 24 weeks of supervised fieldwork. OTA: eight weeks of supervised fieldwork.	NBCOT	OT: 20 hours biennially OTA: 12 hours biennially	-	-	
Arkansas	X	X	OT: Minimum of a Bachelor's Degree from an accredited program. OTA: Minimum of an Associate's Degree from an accredited program.	OT & OTA: No experience is mandated unless the therapist has been out of practice for several years.	NBCOT	OT & OTA: 10 hours annually	X	X	
California	X	X	OT & OTA: Completion of the academic requirements of an educational program approved by the board and accredited by ACOTE.	OT: 960 hours of supervised fieldwork experience shall be completed within 24 months of the completion of didactic coursework. OTA: 640 hours of supervised fieldwork experience shall be completed within 20 months of the completion of didactic coursework.	NBCOT	OT & OTA: 12 hours annually	-	-	
Colorado	-	-	-	-	-	-	-	-	

State	Who is Regulated?		Qualifications				Certifications		
	Occupational Therapists	Occupational Therapy Assistants	Educational Requirements	Experience Requirements	Examination Requirements	Mandatory Continuing Education Requirements	Require OTR-Occupational Therapist Registered	Require COTA-Certified Occupational Therapy Assistants	
Connecticut	X	X	OT: Bachelor's Degree and has graduated from an educational program accredited by AOTA. OTA: Associate's Degree or its equivalent and has graduated from an educational program approved by AOTA.	OT: 24 weeks of supervised fieldwork. OTA: eight weeks of supervised fieldwork.	NBCOT	OT: 12 hours biennially OTA: nine hours biennially	-	-	
Delaware	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT & OTA: Completion of a period of supervised fieldwork experience arranged by the recognized educational institution or by the nationally recognized professional association.	NBCOT	OT & OTA: 20 hours biennially	-	-	
Florida	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT: six months OTA: two months	NBCOT	OT & OTA: 26 hours biennially	-	-	
Georgia	X	X	OT & OTA: Completion of the academic requirements of an educational program approved by the board.	OT: six months OTA: two months	Written examination determined by the board.	OT & OTA: 24 hours biennially	-	-	
Hawaii	X	-	NBCOT requirements.	NBCOT requirements.	NBCOT	None	-	-	
Idaho	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT: six months OTA: two months	NBCOT	None	-	-	
Illinois	X	X	OT: Completion of an OT program at least four years in length leading to a Bachelor's Degree or its equivalent. OTA: Completion of an OTA program at least two years in length leading to an Associate's Degree or its equivalent.	OT & OTA: Completion of a period of supervised fieldwork experience arranged by the recognized educational institution.	The department-authorized examination.	OT & OTA: 24 hours biennially	X	X	
Indiana	X	X	OT & OTA: Completion of the academic requirements of an educational program approved by the board.	OT & OTA: Completion of a period of supervised fieldwork experience arranged by the recognized educational institution.	Examination provided by the board.	None	-	-	

State	Who is Regulated?		Qualifications				Certifications		
	Occupational Therapists	Occupational Therapy Assistants	Educational Requirements	Experience Requirements	Examination Requirements	Mandatory Continuing Education Requirements	Require OTR-Occupational Therapist Registered	Require COTA-Certified Occupational Therapy Assistants	
Iowa	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT: six months OTA: two months	NBCOT	OT: 30 hours biennially OTA: 15 hours biennially	-	-	
Kansas	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT & OTA: Completion of a period of supervised fieldwork experience arranged by the recognized educational institution.	NBCOT	OT & OTA: 40 hours biennially	-	-	
Kentucky	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT: 24 weeks OTA: 16 weeks	Written or computer-based examination approved by the board.	OT & OTA: 12 hours annually	X	X	
Louisiana	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT & OTA: Completion of a period of supervised fieldwork experience arranged by the recognized educational institution.	NBCOT	OT & OTA: 15 hours annually	X	X	
Maine	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	-	NBCOT	OT & OTA: 36 hours biennially	X	X	
Maryland	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT: six months OTA: four months	NBCOT	OT & OTA: 24 hours biennially	-	-	
Massachusetts	X	X	OT & OTA: Completion of the academic requirements of an educational program approved by the board.	OT: Completion of a period of supervised fieldwork experience arranged by the recognized educational institution. OTA: two months	Examination approved by the board.	None	-	-	
Michigan	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	None	NBCOT	None	X	X	

State	Who is Regulated?		Qualifications				Certifications		
	Occupational Therapists	Occupational Therapy Assistants	Educational Requirements	Experience Requirements	Examination Requirements	Mandatory Continuing Education Requirements	Require OTR-Occupational Therapist Registered	Require COTA-Certified Occupational Therapy Assistants	
Minnesota	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	-	NBCOT	OT: 24 hours biennially OTA: 18 hours biennially	-	-	
Mississippi	X	X	OT: Master's Degree OTA: Associate's Degree	OT & OTA: Completion of a period of supervised fieldwork experience arranged by the recognized educational institution or by the nationally recognized professional association.	NBCOT	OT & OTA: 20 hours biennially	X	X	
Missouri	X	X	OT: Master's Degree OTA: Associate's Degree	None	NBCOT	OT & OTA: 24 hours biennially	X	X	
Montana	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT: 24 weeks OTA: 16 weeks	NBCOT	OT & OTA: 10 hours annually	-	-	
Nebraska	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	-	NBCOT	OT: 20 hours biennially OTA: 15 hours biennially	-	-	
Nevada	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT & OTA: Completion of a period of supervised fieldwork experience arranged by the recognized educational institution or by the nationally recognized professional association.	NBCOT	OT & OTA: 10 hours annually	X	X	
New Hampshire	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT: six months OTA: two months	NBCOT	OT & OTA: 24 hours annually	-	-	
New Jersey	X	X	OT: Minimum of a Bachelor's Degree from an accredited program. OTA: Minimum of an Associate's Degree from an accredited program.	OT: 24 weeks OTA: 12 weeks	NBCOT	None	-	-	

State	Who is Regulated?		Qualifications				Certifications		
	Occupational Therapists	Occupational Therapy Assistants	Educational Requirements	Experience Requirements	Examination Requirements	Mandatory Continuing Education Requirements	Require OTR-Occupational Therapist Registered	Require COTA-Certified Occupational Therapy Assistants	
New Mexico	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	-	NBCOT and the New Mexico jurisprudence examination.	OT & OTA: 20 hours annually	-	-	
New York	X	X	OT: Bachelor's or entry-level Master's Degree OTA: Completion of an educational program accredited by ACOTE.	OT: six months OTA: none	OT: NBCOT OTA: None	None	-	-	
North Carolina	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT & OTA: Completion of a period of supervised fieldwork experience arranged by the recognized educational institution or by the nationally recognized professional association.	NBCOT	OT: 15 hours annually OTA: 10 hours annually	-	-	
North Dakota	X	X	OT & OTA: Completion of the academic requirements of an educational program approved by the board.	OT & OTA: Completion of a period of supervised fieldwork experience arranged by the recognized educational institution or by the nationally recognized professional association.	NBCOT	OT & OTA: 10 hours annually	-	-	
Ohio	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	Applicants that have not been actively practicing for at least five years may be required by the Board to complete refresher coursework and/or perform a specified amount of supervised practice.	NBCOT and the Ohio jurisprudence examination.	OT & OTA: 20 hours biennially	-	-	
Oklahoma	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT & OTA: Completion of a period of supervised fieldwork experience arranged by the recognized educational institution or by the nationally recognized professional association.	NBCOT	OT & OTA: 20 hours biennially	X	X	
Oregon	X	X	OT & OTA: Completion of the academic requirements of an educational program approved by the board.	OT: six months OTA: two months	NBCOT	OT & OTA: 30 hours biennially	-	-	

State	Who is Regulated?		Qualifications				Certifications		
	Occupational Therapists	Occupational Therapy Assistants	Educational Requirements	Experience Requirements	Examination Requirements	Mandatory Continuing Education Requirements	Require OTR-Occupational Therapist Registered	Require COTA-Certified Occupational Therapy Assistants	
Pennsylvania	X	X	OT – four-year program OTA – two-year program	OT: six months OTA: two months	NBCOT	None	X	X	
Rhode Island	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT: 24 weeks OTA: 12 weeks	NBCOT	OT & OTA: 20 hours biennially	-	-	
South Carolina	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT: six months OTA: two months	NBCOT	OT & OTA: 16 hours biennially	X	X	
South Dakota	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT & OTA: Completion of a period of supervised fieldwork experience arranged by the recognized educational institution or by the nationally recognized professional association.	NBCOT	OT & OTA: 12 hours annually	-	-	
Tennessee	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT: six months OTA: two months	NBCOT	OT & OTA: 24 hours biennially	-	-	
Texas	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT: six months OTA: two months	NBCOT	OT & OTA: 30 hours biennially	Yes-but licensees do not have to maintain certification	Yes-but licensees do not have to maintain certification	
Utah	X	X	OT: Minimum of a Bachelor's Degree from an accredited program. OTA: Minimum of an Associate's Degree from an accredited program.	-	NBCOT and the Utah jurisprudence examination.	None	X	X	
Vermont	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT: 24 weeks OTA: 16 weeks	NBCOT	OT & OTA: 20 hours biennially	-	-	

State	Who is Regulated?		Qualifications				Certifications		
	Occupational Therapists	Occupational Therapy Assistants	Educational Requirements	Experience Requirements	Examination Requirements	Mandatory Continuing Education Requirements	Require OTR-Occupational Therapist Registered	Require COTA-Certified Occupational Therapy Assistants	
Virginia	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT & OTA: Completion of a period of supervised fieldwork experience arranged by the recognized educational institution or by the nationally recognized professional association.	NBCOT	OT: 20 hrs biennially OTA: None	X	X	
Washington	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT: six months OTA: two months	Board-approved examination.	OT: 30 hours biennially OTA: None, but law is pending for 30 hours.	-	-	
West Virginia	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	OT: six months OTA: two months	NBCOT	OT & OTA: 12 hours annually	-	-	
Wisconsin	X	X	OT & OTA: Completion of an educational program accredited by ACOTE.	-	NBCOT and examination administered by the board.	OT & OTA: 24 hours biennially	X	X	
Wyoming	X	X	OT: Minimum of a Bachelor's Degree from an accredited program. OTA: Minimum of an Associate's Degree from an accredited program.	OT & OTA: Completion of a period of supervised fieldwork experience arranged by the recognized educational institution or by the nationally recognized professional association.	NBCOT	OT & OTA: 16 hours annually	-	-	

ACOTE = Accreditation Council for Occupational Therapy Education
NBCOT = National Board of Certification in Occupational Therapy, Inc.
OT = Occupational Therapist
OTA = Occupational Therapy Assistant

