

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

LCB File No. R094-25

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

AUTHORITY: § 1, NRS 640A.110; § 2, NRS 640A.110 and 640A.170; § 3, NRS 640A.110 and 640A.200.

A REGULATION relating to occupational therapy; requiring a licensee to provide notification to the Board of Occupational Therapy after certain actions are taken or filed against the licensee; eliminating certain requirements relating to temporary licensing; providing that failing to notify the Board of certain information constitutes unprofessional conduct; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Board of Occupational Therapy to regulate the practice of occupational therapy in this State. (NRS 640A.110) Existing law authorizes the Board, after notice and a hearing, to suspend, revoke or refuse to issue or renew a license to practice as an occupational therapist or occupational therapy assistant, or impose conditions upon the use of that license, if the Board determines that the holder of or applicant for the license is guilty of unprofessional conduct which has endangered or is likely to endanger the public health, safety or welfare. Under existing law, “unprofessional conduct” includes the conviction of: (1) a felony or gross misdemeanor relating to the practice of occupational therapy; or (2) any crime involving moral turpitude. (NRS 640A.200) Existing regulations set forth certain other acts that constitute unprofessional conduct by occupational therapists and occupational therapy assistants, including failing to report or otherwise concealing certain information which could result in harm to the public health and welfare. (NAC 640A.350)

Section 1 of this regulation requires a licensee to notify the Board in writing not later than 30 days after: (1) an action is taken against any license, certification, registration or other credential held by the licensee relating to the practice of occupational therapy that was issued in any state or territory of the United States; (2) a criminal charge is filed against the licensee, excluding misdemeanor traffic violations which do not involve alcohol or controlled substances; (3) a civil action, including, without limitation, an action for malpractice, is filed against the licensee for any act relating to the practice of occupational therapy; or (4) a judgment, settlement, or final disposition is issued regarding any such action or charge. **Section 3** of this regulation provides that failure to comply with the reporting requirements in **section 1** constitutes unprofessional conduct.

Existing law and regulations prohibit the Board from renewing a temporary or provisional license more than once. (NRS 640A.170; NAC 640A.062, 640A.065) Existing regulations prohibit a person who has previously been issued a temporary license from applying

for another temporary license until 6 months after the expiration of his or her last original or renewed temporary license, as applicable. (NAC 640A.062) **Section 2** of this regulation eliminates this prohibition.

Section 1. Chapter 640A of NAC is hereby amended by adding thereto a new section to read as follows:

A licensee shall notify the Board in writing not later than 30 days after:

1. An action is taken against any license, certification, registration or other credential held by the licensee relating to the practice of occupational therapy that was issued in any state or territory of the United States;

2. A criminal charge is filed against the licensee, excluding misdemeanor traffic violations which do not involve alcohol or controlled substances;

3. A civil action, including, without limitation, an action for malpractice, is filed against the licensee for any act relating to the practice of occupational therapy; or

4. A judgment, settlement or final disposition is issued regarding any action or charge filed pursuant to this section.

Sec. 2. NAC 640A.062 is hereby amended to read as follows:

640A.062 1. A person who is currently certified as an occupational therapist registered or certified occupational therapy assistant and who holds a license that is active and in good standing as an occupational therapist or occupational therapy assistant issued in another state or territory of the United States may apply to the Board for a temporary license to practice in this state by meeting the requirements set forth in NAC 640A.030.

2. A temporary license expires 6 months after the date on which it is issued.

3. A temporary license may be renewed not more than once.

4. A temporary license may be converted to a standard license if the person:

- (a) Meets the requirements set forth in NAC 640A.030 and 640A.041; and
- (b) For a temporary license as an occupational therapy assistant, submits proof of employment and supervision by a licensed occupational therapist upon conversion of the license.

~~{5.—A person who has previously been issued a temporary license may not apply for another temporary license until 6 months after the expiration of his or her last original or renewed temporary license, as applicable.}~~

Sec. 3. NAC 640A.350 is hereby amended to read as follows:

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

1. Engaging in the practice of occupational therapy when unable to do so with reasonable skill and safety to patients because of the licensee’s use of alcohol or any controlled substance, or because of any mental or physical condition or illness suffered by the licensee;
2. Being guilty of negligence in the performance of occupational therapy;
3. Allowing another person to use the license issued to the licensee;
4. Failing to report or otherwise concealing information related to a violation of this chapter or NRS 640A.200 which could result in harm to the public health and welfare;
5. Intentionally making or filing a false or misleading report;
6. Failing to file a report which is required by law or a third person or intentionally obstructing or attempting to obstruct another person from filing such a report;
7. Intentionally harassing, abusing or intimidating a patient, employer, employee, colleague or other person, either physically or verbally, including, without limitation, sexual harassment, abuse or intimidation;

8. Failing to notify the Board of disciplinary action imposed upon the licensee or applicant for licensure by a regulatory authority in another jurisdiction in which the licensee or applicant currently holds or held a license;

9. Divulging, without the consent of the patient, information gained within the context of the professional relationship with the patient, unless otherwise required by law;

10. Failing to obtain the informed consent of a patient before engaging in scientific research involving the patient;

11. Violating a provision of the *Occupational Therapy Code of Ethics and Ethics Standards* or the *Standards of Practice for Occupational Therapy*, adopted by reference in NAC 640A.205;

12. Referring or appearing to refer a patient to a third person to receive a fee or other consideration from the third person;

13. Recommending or prescribing therapeutic devices or modalities sold by a third person to receive a fee or other consideration from the third person;

14. Advertising in a manner that tends to deceive or mislead the public or advertising deceptive or misleading information;

15. Making false statements, providing false information or omitting pertinent information in connection with an application for licensure or renewal of a license;

16. Misrepresenting or falsifying credentials, including, without limitation, those relating to education, training, experience and areas of competency;

17. Practicing or offering to practice beyond the scope authorized by law;

18. Performing professional services which the occupational therapist knows he or she is not competent to perform;

19. Performing a pelvic examination or any other internal examination of a patient without first obtaining the informed, written consent of the patient; ~~for~~

20. Touching a patient for a sexual purpose or in any way unnecessary for a treatment intervention ~~is~~; *or*

21. Failing to report timely to the Board any judgment, settlement or final disposition required to be reported pursuant to section 1 of this regulation.