

BASIS STATEMENT AND RESPONSE TO COMMENTS

CHAPTER 1 GENERAL INFORMATION

ADOPTED OCTOBER 19, 2012

Basis Statement

This chapter contained provisions relating to election of officers, and restricted the use of certain professional identifiers. Board governance provisions need not be in the board's rules. The provisions relating to professional identifiers are unnecessary for the reasons discussed in the Response to Comments immediately below.

Response to Comments

Cynthia Spence

- ◆ "I also see that Section 2 related to Professional Identification has been lined out and I don't see any substitution. One of my biggest concerns has been the occurrences of people representing that they are "occupational therapists" rather than certified occupational therapy assistants and I know that there have been findings that this has been a problem in the past. I remain concerned that without this clearly delineated, this will again begin to occur with more frequency. Just as any other licensee in the state has to represent their status clearly (I also hold a real estate license and know the importance of ensuring that the public is aware of our credentials) I am concerned that this is being taken out. I am sure it is covered in the Code of Ethics in a general manner but this has been a big concern. At one point, COTAs who were graduating from an in-state program were advised to sign their documents as "Occupational Therapy Practitioner" which clearly did not delineate their level of education or credentials. Clients were then unable to understand what level of practitioner they were working with. I have not seen this recently, but surely, without this being covered clearly in the rule, it will pop up again."
- Board Response: Section 2 of the predecessor (repealed) rule:
 - Prohibited unauthorized use of the designation "OTR/L" or "COTA/L" to falsely indicate that an individual is a licensed occupational therapist or certified occupational therapy assistant in good standing with the National Board for Certification in Occupational Therapy (NBCOT)

- Prohibited occupational therapy practitioners from misrepresenting their licensure status in general
- Permitted occupational therapy students and occupational therapy assistant students to use the designations “OTS” and “OTAS,” respectively

Title 32 MRSA §2276 prohibits unauthorized use of the designations “OT,” “OTR,” “OTA,” or “COTA” to falsely indicate that an individual is a licensed occupational therapist or certified occupational therapy assistant. It is unnecessary for the board to expand the statutory prohibitions to include misrepresentations of one’s certification status with NBCOT. NBCOT certification is not required for licensure (although about half the applicants for initial licensure are certified). Any alleged misrepresentation or obfuscation of credentials may be investigated under 10 MRSA §8003(5-A)(A)(1), which prohibits “the practice of fraud, deceit or misrepresentation...in connection with services rendered while engaged in the occupation or profession for which the person is licensed.” (See also 10 MRSA §8003(5-A)(A)(6), which prohibits practice by a licensee beyond the scope of the license held.)

The former rule’s authorization for students to use the appropriate “OTS” or “OTAS” designation is a direct quote from 32 MRSA §2272(2). Statutes need not ordinarily be repeated in a board’s rules.

The board accordingly declines to make the changes requested by the commenter. This chapter is repealed as proposed.

Findings Relevant to Executive Order 20 FY 11/12 (August 24, 2011)

- A. The proposed rule will not impact job growth or creation.
- B. There are no fees imposed by the proposed rule.
- C. There is no cost to licensees or the public in terms of time or money required to comply with the rule.
- D. No other laws or regulations other than the occupational therapists licensing law, 32 MRSA Chapter 32 already address the subject matter of the rule.
- E. There are no relevant federal standards.

BASIS STATEMENT AND RESPONSE TO COMMENTS

CHAPTER 2 ADVISORY RULINGS

ADOPTED OCTOBER 19, 2012

Basis Statement

This chapter provides for the discretionary issuance of advisory rulings by the board as required by the Maine Administrative Procedure Act.

Response to Comments

No comments were received on the proposed rule. This chapter is amended as proposed.

Findings Relevant to Executive Order 20 FY 11/12 (August 24, 2011)

- A. The proposed rule will not impact job growth or creation.
- B. There are no fees imposed by the proposed rule.
- C. There is no cost to licensees or the public in terms of time or money required to comply with the rule.
- D. No other laws or regulations other than the occupational therapists licensing law, 32 MRSA Chapter 32 already address the subject matter of the rule.
- E. There are no relevant federal standards.

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

477 BOARD OF OCCUPATIONAL THERAPY PRACTICE

BASIS STATEMENT AND RESPONSE TO COMMENTS

CHAPTER 3

RULES FOR THE LICENSURE OF OCCUPATIONAL THERAPY PRACTICE

ADOPTED OCTOBER 19, 2012

Basis Statement

This chapter is repealed and replaced by Chapter 3-A. For a discussion of the changes, see the Basis Statement and Response to Comments for Chapter 3-A.

Response to Comments

No comments were received on the proposed rule. This chapter is repealed as proposed.

Findings Relevant to Executive Order 20 FY 11/12 (August 24, 2011)

- A. The proposed rule will not impact job growth or creation.
- B. There are no fees imposed by the proposed rule.
- C. There is no cost to licensees or the public in terms of time or money required to comply with the rule.
- D. No other laws or regulations other than the occupational therapists licensing law, 32 MRSA Chapter 32 already address the subject matter of the rule.
- E. There are no relevant federal standards.

BASIS STATEMENT AND RESPONSE TO COMMENTS

CHAPTER 3-A LICENSURE AS A TEMPORARY LICENSEE, OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT

ADOPTED OCTOBER 19, 2012

Basis Statement

This chapter replaces former Chapter 3. Because the board has not altered the statutory criteria for licensure, this chapter refers the reader to the pertinent statutes, as opposed to repeating the statutory criteria in rule. This chapter updates application requirements (i.e., submission of verification of licensure, criminal/disciplinary history) to conform to present practice. Provisions in former Chapter 3 relating to one-time renewal of the temporary license have been relocated to Chapter 6-A.

Response to Comments

No comments were received on the proposed rules.

Board Finding

No comments were received on the proposed rules, but the board makes the following finding:

Board Finding

Title 32 MRSA §2277(3) provides:

3. Education. An applicant must present evidence satisfactory to the board of having successfully completed the academic and fieldwork requirements of an educational program in occupational therapy or occupational assisting.

Under Chapter 3, Section 2(E) of the predecessor rule, applicants for a temporary license were permitted to satisfy this requirement by submitting:

An official transcript or a signed verification of education form with the signature of the Dean or occupational therapy program director (must have school seal or be notarized).

The proposed rule eliminated the option of demonstrating completion of education by presenting the signed verification. Under Chapter 3-A, Section 2 of the proposed rule,

completion of education “must be demonstrated by an official academic transcript issued under the seal of the educational institution.”

The purpose of the proposal was to ensure that no license be issued unless the applicant had in fact graduated. However, the board now realizes that if implemented, this restriction would delay the entry of new licensees into the profession by a month or more.

Title 32 MRSA §2278 permits the board to issue a temporary license to an applicant who has completed the educational and fieldwork requirements for licensure as an occupational therapist or certified occupational therapy assistant but has not yet passed the license examination. Typically, the summer graduating class of OTs and OTAs applies for a temporary license upon completion of the academic year in July, and applies for permanent licensure after passing the exam. Transcripts are not available until late August. Requiring a transcript for issuance of a temporary license would unduly delay the new graduates’ ability to practice.

The board’s current procedure, though not stated in rule, is to accept a school verification letter for issuance of the temporary license, but to require an official transcript before issuing the permanent license. (See the board’s application forms on line.) This approach reconciles the need for speedy licensure of new practitioners with the need to fully verify academic credentials. The revised rule language set forth below incorporates the board’s current procedure into this chapter.

For the foregoing reasons, the board finds that it is necessary to revise the first paragraph of Section 2 of the proposed rule to read:

2. Application for Licensure

Application for licensure must be made on forms provided by the board and must be accompanied by the applicable fees prescribed by Chapter 10, Section 5(25) of the rules of the Office of Professional and Occupational Regulation, entitled “Establishment of License Fees.” ~~Completion~~ For issuance of a temporary license, completion of the educational program required by 32 MRSA §2278, 2279(3) or §2284(1) must be demonstrated by completion of a Verification of Education form provided by the board, or an official academic transcript issued under the seal of the educational institution. The official academic transcript must be provided before a permanent license will be issued. The character references required by 32 MRSA §227992-A) may not be from a person related to the applicant by blood or by marriage.

No comments were received on the proposed rule. This chapter is adopted with the amendment to Section 2 set forth above.

Findings Relevant to Executive Order 20 FY 11/12 (August 24, 2011)

A. The proposed rule will not impact job growth or creation.

- B. There are no fees imposed by the proposed rule.
- C. There is no cost to licensees or the public in terms of time or money required to comply with the rule.
- D. No other laws or regulations other than the occupational therapists licensing law, 32 MRSA Chapter 32 already address the subject matter of the rule.
- E. There are no relevant federal standards.

BASIS STATEMENT AND RESPONSE TO COMMENTS

CHAPTER 4 FEES

ADOPTED OCTOBER 19, 2012

Basis Statement

This chapter is repealed because the board no longer has the authority to set license fees. Fees are now set by the Director of OPOR pursuant to 10 MRSA §8003(2-A)(D) and 32 MRSA §2285.

Response to Comments

Cynthia Spence

- ◆ “I have reviewed the information on the proposed changes to the Board of Occupational Therapy Practice rules and also looked at the license fees referenced in Chapter 10: Establishment of License Fees. Those fees are still listed for a biannual renewal. What is the proposed fee for the annual renewal?”
 - Board Response: Effective March 31, 2013, annual fees are \$40 for initial issuance or renewal of an occupational therapy license and \$35 for initial issuance or renewal of an occupational therapy assistant license. The new annual fees are ½ the amount of the biannual fees that are currently in effect.

This chapter is repealed as proposed.

Findings Relevant to Executive Order 20 FY 11/12 (August 24, 2011)

- A. The proposed rule will not impact job growth or creation.
- B. There are no fees imposed by the proposed rule.
- C. There is no cost to licensees or the public in terms of time or money required to comply with the rule.
- D. No other laws or regulations other than the occupational therapists licensing law, 32 MRSA Chapter 32 already address the subject matter of the rule.
- E. There are no relevant federal standards.

BASIS STATEMENT AND RESPONSE TO COMMENTS

CHAPTER 5

ROLE OF THE OCCUPATIONAL THERAPY ASSISTANT; SUPERVISION OF OCCUPATIONAL THERAPY ASSISTANTS AND TEMPORARY LICENSEES

ADOPTED OCTOBER 19, 2012

Basis Statement

The amendments to this chapter eliminate the highly prescriptive supervision requirements in favor of the more flexible approach mandated by 32 MRSA §2272(14). Section 2272(14) provides that the supervisor of a certified occupational therapy assistant is responsible for determining the frequency and nature of the supervision to be provided. The board's rationale for this change is discussed in the board's response to the comment of Cynthia Spence below. The board has adopted the same approach to the supervision of temporary licensees mandated by 32 MRSA §2272(15).

Supervision of certified occupational therapy assistants has traditionally been performed by an occupational therapist employed by the same entity, and at the same work site, as the assistant. The growth in numbers of COTAs has led to the development of new employment settings in which a COTA may be working in an office or facility without ready access to a supervising OTA provided by a common employer. A COTA in this scenario must contract for supervision. The specific supervision guidelines in the predecessor rule were more attuned to the traditional model. Reliance on the bare statutory criteria will foster greater flexibility in supervision arrangements involving non-traditional practice settings. Additional elaboration in board rules is unnecessary.

A contract supervisor will likely not have the same familiarity with a COTA's patients as an in-house supervisor. For this reason, former Section 3(C) of the predecessor rule—

- C. The supervisor is responsible for the standard of work performed by the supervisee and must have knowledge of the client and the problems being discussed.

—was replaced with new Section 2(2):

- 2. Knowledge of Client

The supervising occupational therapist must have knowledge of the client, or the occupational therapy services received by the client, and the problems being discussed.

At the same time, the amended chapter emphasizes the supervisor’s responsibility for the supervisee’s activities, regardless of any difference in work setting. The phrase in former Section 3(C) quoted above—

“The supervisor is responsible for the standard of work performed by the supervisee...”

—was replaced by the provision in new Section 2(1):

“The supervisor is legally and ethically responsible for the professional activities of an occupational therapy assistant or temporary licensee under his or her supervision.”

In short, the greater flexibility given to supervisors in crafting a supervision regimen must not be taken lightly.

Former Section 4(D) of the predecessor rule required supervisors to keep detailed documentation of the supervision provided and to make the documentation available for inspection by the board upon request. This requirement is unduly burdensome and has been repealed. More important is ensuring that each supervisee has one or more supervisors at all times. Section 5 requires both supervisor and supervisee to keep this information current with the board.

Response to Comments

Rebecca Cirillo

- ◆ Chapter 5, Section 1(4): “Shall not rather than May not. Webster’s dictionary definition of may, “to be possible.” Assistants are not permitted to perform an evaluation.

- Board Response: Section 1(4) of the proposed rule reads as follows:

1. Role of the Occupation Therapy Assistant

The occupational therapy assistant:

...

4. May not perform an evaluation, but is permitted to contribute to the evaluation process in collaboration or consultation with the occupational therapist;

The board’s rules follow style and usage recommendations of the Maine Legislative Drafting Manual (August 2009 revision) published by the Office of the Reviser of Statutes. Part III, Chapter 2, Section 1(B)(1) of the manual gives the following guidance for language prohibiting action:

Do not use “shall not.” Use “may not” to prohibit an action. “May not” is broader than “shall not” as “may not” negates the authority to perform an action as well as prohibiting the action itself...

The example given is, “A person may not conduct a picket line...”

For this reason the board declines to change the language of Section 1(4) as requested by the commenter.

Diane Sauter-Davis

◆ Chapter 5, Section 1(4) of the proposed rule should be amended to read:

1. Role of the Occupation Therapy Assistant

The occupational therapy assistant:

...

4. May not perform an evaluation independently, but ~~is permitted to~~ may contribute to the evaluation process in collaboration or consultation with the occupational therapist;

- Board Response: The board accepts this change to the proposed rule. The commenter’s language better conveys the assistant’s role in the evaluation process.

Diane Sauter-Davis

◆ The board should strike the last sentence of Chapter 5, Section 2(1) of the proposed rule, to wit:

2. Supervision of Occupational Therapy Assistants and Temporary Licensees

1. Principles of Supervision

The occupational therapist has the ultimate responsibility for occupational therapy treatment outcomes. Supervision is a shared responsibility. The supervising occupational therapist has a legal and ethical responsibility to provide supervision, and the supervisee has a legal and ethical responsibility to obtain supervision. Supervision is required even when the supervisee is experienced and/or highly skilled in a particular area. ~~A supervisor is legally and ethically responsible for the professional activities of an occupational therapy assistant or temporary licensee under his or her supervision.~~

“Suggestion is to remove the above [sentence]. It is redundant and does not further clarify. Maybe a statement like – ‘Both the occupational therapist and the occupational therapy assistant are responsible for legal and ethical service delivery according to the licensure rules and regulations.’ This promotes responsibility and accountable actions for both parties.”

- Board Response: The board disagrees with the commenter’s suggestion to strike or replace the last sentence of Section 2(1). This sentence is important because it establishes the supervisor’s responsibility to the

board for any misdeeds or omissions committed by any supervisee for whom the supervisor provides supervision. Although a certified occupational assistant or temporary licensee may extend an occupational therapist's ability to provide services, the OT is captain of the ship and is ultimately responsible for the level of care provided by the crew. The extent of that responsibility will depend on the board's evaluation of the situation upon the conclusion of a complaint investigation.

Rebecca Cirillo

- ◆ Chapter 5, Section 2(3): "COTA's, change to OTA's. Not all practicing assistants are NBCOT Certified."
 - Board Response: Title 32 MRSA §2272(5) defines "certified occupational therapy assistant" as follows:

5. Certified occupational therapy assistant. "Certified occupational therapy assistant" means an individual who has passed the certification examination of the National Board for Certification in Occupational Therapy for an occupational therapy assistant or who was certified as an occupational therapy assistant prior to June 1977 and who is licensed to practice occupational therapy under this chapter in the State under the supervision of an occupational therapist.

"Certified occupational therapy assistant" is the name of the license. Certification by NBCOT is not a requirement for licensure (although about half the applicants for initial licensure are certified). For this reason the board declines to change the language of Section 2(1) as requested by the commenter.

Cynthia Spence

- ◆ "I have also had concerns in the past around what therapists have referred to as 'remote supervision.' This occurred when a practitioner was out of state for the majority of 2 years and was 'supervising' entry-level staff via video/teleconferencing. This clearly was inappropriate supervision for an entry level person and did not in any way allow the supervising therapist to have adequate knowledge of the clients being serviced. I have experienced many therapists who are not aware of the AOTA guidelines for supervision and I have not seen anything that is very clearly outlined that is particularly current. Alarming, many therapists do not belong to the national organization and therefore, do not have access to these documents. I would like to see at least some of those definitions remain in the rule. I would agree that outlining specific supervision requirements does not make sense but it seems that the Rules are developed to help with definition of the law and should provide guidance in some areas."

- Board Response: Title 32 MRSA §2272(14) defines “supervision of COTA” as follows:

14. Supervision of COTA. “Supervision of COTA” means initial directions and periodic inspection of the service delivery and provision of relevant in-service training. *The supervising licensed occupational therapist shall determine the frequency and nature of the supervision to be provided based on the clients’ required level of care and the COTA’s caseload, experience and competency.*

(emphasis added)

The supervision requirements currently in force define three “skill levels” (entry level, intermediate and advanced), four “supervision levels” (direct, close, routine and general), further refine the application of these four supervision levels in a matrix of what type of supervision is appropriate for licensees of different skill levels, and overlay all this detail with additional supervision standards for formal on site face-to-face supervision.

The current scheme is confusing, overly prescriptive and unenforceable. For example, supervising entry-level COTAs by teleconference as described by the commenter violates the current supervision requirements, yet no one ever complained to the board about what apparently was a long-standing practice by at least one supervisor. In addition, the board’s current rule is inconsistent with 32 MRSA §2272(14) (quoted above), which requires the supervisor, not the board, to determine the frequency and nature of supervision of COTAs. This flexibility will allow the supervisor to tailor supervision to the work setting (e.g., brain injury, geriatrics, developmental disability).

A lesser board role in supervision is also justified by the fact that the COTA is no longer a gateway license to the OT. The vast majority of COTAs do not become OTs. Under 32 MRSA §2272(5), supervision of COTAs is ongoing and is not limited in time to an initial period of licensure. There is less regulatory interest in a perpetual supervision requirement than in a supervision requirement focused on a licensee’s beginning period of practice.

The proposed rules do offer guidance to supervisors by setting forth principles of supervision and requiring the supervisor to have knowledge of the client, or the services received by the client, and the problems being discussed. The proposed rules also require accurate and up-to-date records of who the supervisor is for every COTA and temporary licensee, require that a separate supervisor of record be engaged for each facility or work setting in which the supervisee is employed, and emphasize that the supervisor is legally responsible for the professional activities of each supervisee under his or her supervision.

For these reasons, the board declines to make the changes requested to Chapter 5, Section 2 requested by the commenter.

Other than the change to Section 1(4) made in response to Ms. Sauter-Davis' comment, this chapter is amended as proposed.

Findings Relevant to Executive Order 20 FY 11/12 (August 24, 2011)

- A. The proposed rule will not impact job growth or creation.
- B. There are no fees imposed by the proposed rule.
- C. There is no cost to licensees or the public in terms of time or money required to comply with the rule.
- D. No other laws or regulations other than the occupational therapists licensing law, 32 MRSA Chapter 32 already address the subject matter of the rule.
- E. There are no relevant federal standards.

BASIS STATEMENT AND RESPONSE TO COMMENTS

CHAPTER 6 RENEWAL REQUIREMENTS AND CONTINUING EDUCATION

ADOPTED OCTOBER 19, 2012

Basis Statement

This chapter is repealed and replaced by Chapter 6-A. The major difference between the two chapters – and the impetus for this rulemaking proceeding – is the elimination of the continuing education requirement.

Title 32 MRSA §2283(3) states, “Each license renewal must be accompanied with evidence of continuing education as established by board rule.” The board’s first rules, adopted in 1985, required each renewal application to be accompanied by a photocopy of the licensee’s current AOTA registration card.¹ The rulemaking record suggests that the purpose of this requirement was to assure the continued competence of the licensee. Effective February 7, 1989, the board adopted a new Chapter 2 that explicitly required 36 hours of continuing education every two years. Effective June 3, 2001, in a new Chapter 6, the board substantially revised the continuing education criteria but retained the overall requirement of 36 hours biennially.

Title 32 MRSA §2283(3) is permissive rather than mandatory. The board may require continuing education as a condition of license renewal, but is not obligated to do so. In this rulemaking proceeding, the board has opted to discontinue continuing education.

The assumption behind the continuing education requirement is that ongoing exposure to professional learning will increase the quality of care provided to patients and reduce the incidence of negligent, incompetent or unethical practice. The board has no information as to whether or not this is so. The rationale for the board’s discontinuance of the continuing education requirement is set forth in the response to comments immediately below.

Response to Comments

Kazia Bois

- ◆ “I am writing because I do *not* agree with the repealing of the continuing education requirement for occupational therapists. I have been a practicing

¹ Chapter 1, Section 4(A), effective July 28, 1985.

occupational therapist for the last 13 years. With every year that passes it becomes more and more important for OTs to expand their knowledge base to stay current with the ever-changing medical world. I believe the continuing education requirements have a direct impact to the growth of our profession. Please do not repeal the continuing education requirements for occupational therapists.”

- Board Response: The board is unconvinced that a continuing education *requirement* necessarily results in more competent or more ethical practitioners. Although the board has long indulged this premise, it is open to question whether forced exposure to educational activities results in any improvement in the care provided. Perhaps for this reason, the Board of Examiners in Physical Therapy, the Maine Board of Nursing and, most recently, the Board of Respiratory Care Practitioners do not require licensees to participate in continuing education activities as a condition of license renewal.

The board receives very few complaints from members of the public. Although one could argue that this reflects the benefit of continuing education, a more likely explanation is that the overall competence of practitioners is high, and that a continuing education *requirement* is not necessary to assure competence.

Continuing education opportunities exist for those motivated to find them. The large number of licensees who maintain their NBCOT certification must complete 36 professional development units every three years. Licensees employed in hospital or institutional settings may have in-service training programs presented by their employer.

Removing the continuing education requirement will simplify the license renewal process for all licensees, free up staff time that is currently devoted to continuing education audits, and will not prevent licensees who wish to participate in continuing education activities from doing so voluntarily.

This chapter is repealed as proposed.

Findings Relevant to Executive Order 20 FY 11/12 (August 24, 2011)

- A. The proposed rule will not impact job growth or creation.
- B. There are no fees imposed by the proposed rule.
- C. There is no cost to licensees or the public in terms of time or money required to comply with the rule.
- D. No other laws or regulations other than the occupational therapists licensing law, 32 MRSA Chapter 32 already address the subject matter of the rule.
- E. There are no relevant federal standards.

BASIS STATEMENT AND RESPONSE TO COMMENTS

CHAPTER 6-A LICENSE RENEWAL; REINSTATEMENT

ADOPTED OCTOBER 19, 2012

Basis Statement

This chapter changes the licensure period from biannual to annual, effective March 31. Annual licensure allows more accurate budgeting and fiscal management and generates more current licensee information. Because license renewal can be done on line, the inconvenience to licensees is minimal. The changeover to annual licensing will not result in a fee increase to licensees.

This chapter updates renewal procedures from Section 1 of former Chapter 6 to reflect current practice, and also updates one-time renewal requirements for the temporary license that were formerly found in repealed Chapter 3.

Response to Comments

No comments were received on the proposed rule. This chapter is adopted as proposed.

Findings Relevant to Executive Order 20 FY 11/12 (August 24, 2011)

- A. The proposed rule will not impact job growth or creation.
- B. There are no fees imposed by the proposed rule.
- C. There is no cost to licensees or the public in terms of money required to comply with the rule. There is a minimal cost to licensees in terms of time required to comply with the proposed rule in that license renewal will be annual instead of biannual. Because license renewal can be done on line, the inconvenience to licensees will be minimal.
- D. No other laws or regulations other than the occupational therapists licensing law, 32 MRSA Chapter 32 already address the subject matter of the rule.
- E. There are no relevant federal standards.

BASIS STATEMENT AND RESPONSE TO COMMENTS

CHAPTER 7 CODE OF ETHICS AND ETHICS STANDARDS

ADOPTED OCTOBER 19, 2012

Basis Statement

This chapter repeals and replaces the board's code of ethics for licensees. The predecessor rule included the 2000 AOTA code of ethics in its entirety. The new rule incorporates the AOTA 2010 code of ethics in its entirety, but excludes portions that fall outside the board's core mission of assuring a minimum level of professional competence and ethical conduct.

Response to Comments

Rebecca Cirillo

◆ "Chapter 7

Social Justice

Occupational therapy personnel shall

F has been allowed (agreed). However, I don't understand the flow if Social Justice is stricken."

- Board Response: To restore the flow, Chapter 7, Section 2 is adopted to read:

2. Exclusions

The board does not adopt the following provisions of the Code and Ethics Standards:

1. Principle 4, Social Justice, in its entirety, with the exception of the title "Social Justice," the prefatory phrase "Occupational therapy personnel shall" and paragraph F;
2. Principle 5, Procedural Justice, paragraphs D and F; and
3. Principle 7, Fidelity, paragraphs C, D and G.

In all other respects, Chapter 7 is adopted as proposed.

Findings Relevant to Executive Order 20 FY 11/12 (August 24, 2011)

- A. The proposed rule will not impact job growth or creation.
- B. There are no fees imposed by the proposed rule.
- C. There is no cost to licensees or the public in terms of time or money required to comply with the rule.
- D. No other laws or regulations other than the occupational therapists licensing law, 32 MRSA Chapter 32 already address the subject matter of the rule.
- E. There are no relevant federal standards.

BASIS STATEMENT AND RESPONSE TO COMMENTS

CHAPTER 8 ENFORCEMENT AND DISCIPLINARY PROCEDURES

ADOPTED OCTOBER 19, 2012

Basis Statement

Former Chapter 8 described in Section 1 the role of the board complaint officer and referenced in Section 2 OPOR's Administrative Complaint Procedures. The Administrative Complaint Procedures are self-executing and need not be referenced or supplemented in the board's rules. Because the function of both sections is solely informational, this chapter has been repealed in its entirety.

Response to Comments

No comments were received on the proposed rule. This chapter is repealed as proposed.

Findings Relevant to Executive Order 20 FY 11/12 (August 24, 2011)

- A. The proposed rule will not impact job growth or creation.
- B. There are no fees imposed by the proposed rule.
- C. There is no cost to licensees or the public in terms of time or money required to comply with the rule.
- D. No other laws or regulations other than the occupational therapists licensing law, 32 MRSA Chapter 32 already address the subject matter of the rule.
- E. There are no relevant federal standards.

BASIS STATEMENT AND RESPONSE TO COMMENTS

CHAPTER 9 PROFESSIONAL MISCONDUCT

ADOPTED OCTOBER 19, 2012

Basis Statement

This chapter describes two types of misconduct that may result in disciplinary action against a licensee, including denial or nonrenewal of a license: habitual substance abuse and sexual misconduct. See 10 MRSA §8003(5-A)(A)(2) and (5), which prohibit licensees from, among other things, engaging in misconduct while engaged in the licensed profession or violating the rules of the board. Prohibitions against habitual substance abuse and sexual misconduct are not unique to this board.

Response to Comments

No comments were received on the proposed rule. This chapter is adopted as proposed.

Findings Relevant to Executive Order 20 FY 11/12 (August 24, 2011)

- A. The proposed rule will not impact job growth or creation.
- B. There are no fees imposed by the proposed rule.
- C. There is no cost to licensees or the public in terms of time or money required to comply with the rule.
- D. No other laws or regulations other than the occupational therapists licensing law, 32 MRSA Chapter 32 already address the subject matter of the rule.
- E. There are no relevant federal standards.