

Notice of Agency Rulemaking Proposal

AGENCY: 02-477, Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Occupational Therapy Practice

CHAPTER NUMBER AND TITLE:

Chapter 4: License Renewal and Continuing Education Requirements; Reinstatement (new)
Chapter 6-A: License Renewal; Reinstatement (repeal)

TYPE OF RULE (*check one*): Routine Technical Major Substantive

PROPOSED RULE NUMBER (*leave blank; to be assigned by Secretary of State*):

BRIEF SUMMARY:

The proposed rule was developed as a result of the change in the Board's governing statute requiring continuing education requirements as a condition for renewal of a license. The new law directs the board to prescribe those requirements in rule. The rulemaking would incorporate the existing provisions in rule regarding license renewal and reinstatement that are currently in Chapter 6-A of board rules, and propose to repeal that chapter in its entirety and consolidate all provisions with the Continuing Education Requirements in a newly created Chapter 4. The rule proposes that each occupational therapist shall complete ten (10) hours and every occupational therapy assistant shall complete six (6) hours of continuing education relevant to the practice of occupational therapy or interprofessional practice during each reporting period as a condition of renewal. At least one (1) hour shall be on ethics. There is no requirement for either in-person attendance or a live, remote program during which immediate interaction with the instructor is possible. A minimum of four (4) hours must be completed by participation in a program offered by a recognized sponsor, while the remaining hours may be satisfied through a number of other qualifying activities including (but not limited to; please refer to text of the proposed rule) academic coursework, publications related to occupational therapy, preparation for and presenting at a workshop or seminar, and research.

Copies of the proposed rule and rulemaking documents may be found on the Board's webpage: <https://www.maine.gov/pfr/professionallicensing/professions/board-occupational-therapy-practice>. Scroll down to "What's New" and "Rulemaking."

Date, time and location of PUBLIC HEARING (*if any*): The hearing will take place on Thursday, October 27, 2022, from 10:30 a.m.-12:30 p.m., at the Maine Department of Marine Resources, East Campus, 32 Blossom Lane, Marquardt Building, Conference Room 118, Augusta, ME 04330. Please visit the Board's webpage, <https://www.maine.gov/pfr/professionallicensing/professions/board-occupational-therapy-practice>, for additional information, including how to access the meeting remotely via a Zoom link. Members of the public may provide comments at the public rulemaking hearing by attending in-person or virtually.

COMMENT DEADLINE: Friday, December 2, 2022, 5:00 p.m. Comments may be submitted to Candice Wright, Consumer Assistance and Hearing Coordinator, 35 State House Station, Augusta, ME 04333-0035, Candice.B.Wright@maine.gov.

CONTACT PERSON FOR THIS FILING (*include name, mailing address, telephone, fax, TTY, email*): Candice Wright, Consumer Assistance and Hearing Coordinator, 35 State House Station, Augusta, ME 04333-0035, Candice.B.Wright@maine.gov, 207-624-8601, TTY: Maine relay 711.

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (*if different*): N/A

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (*if any*): N/A

STATUTORY AUTHORITY FOR THIS RULE: 32 M.R.S. §§ 2274(2); 2283(4); 10 M.R.S. § 8003(5-A)(D)

Rulemaking Fact Sheet

(5 MRS §8057-A)

AGENCY: 02-477, Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Occupational Therapy Practice

NAME, ADDRESS, PHONE NUMBER, EMAIL OF AGENCY CONTACT PERSON:

Candice Wright, Consumer Assistance and Hearing Coordinator, 35 State House Station, Augusta, ME 04333-0035, Candice.B.Wright@maine.gov, 207-624-8601, TTY: Maine relay 711.

CHAPTER NUMBER AND RULE TITLE:

Chapter 4: License Renewal and Continuing Education Requirements; Reinstatement (new)

Chapter 6-A: License Renewal; Reinstatement (repeal)

TYPE OF RULE (*check one*): Routine Technical Major Substantive

STATUTORY AUTHORITY: 32 M.R.S. §§ 2274(2); 2283(4); 10 M.R.S. § 8003(5-A)(D)

DATE, TIME AND PLACE OF PUBLIC HEARING: The hearing will take place on Thursday, October 27, 2022, from 10:30 a.m.-12:30 p.m., at the Maine Department of Marine Resources, East Campus, 32 Blossom Lane, Marquardt Building, Conference Room 118, Augusta, ME 04330. Please visit the Board's webpage, <https://www.maine.gov/pfr/professionallicensing/professions/board-occupational-therapy-practice>, for additional information, including how to access the meeting remotely via a Zoom link. Members of the public may provide comments at the public rulemaking hearing by attending in-person or virtually.

COMMENT DEADLINE: Friday, December 2, 2022, 5:00 p.m. Comments may be submitted to Candice Wright, Consumer Assistance and Hearing Coordinator, 35 State House Station, Augusta, ME 04333-0035, Candice.B.Wright@maine.gov.

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE:

The proposed rule was developed as a result of the change in the Board's governing statute requiring continuing education requirements as a condition for renewal of a license. The new law directs the board to prescribe those requirements in rule. The rulemaking would incorporate the existing provisions in rule regarding license renewal and reinstatement that are currently in Chapter 6-A of board rules, and propose to repeal that chapter in its entirety and consolidate all provisions with the Continuing Education Requirements in a newly created Chapter 4. The rule proposes that each occupational therapist shall complete ten (10) hours and every occupational therapy assistant shall complete six (6) hours of continuing education relevant to the practice of occupational therapy or interprofessional practice during each reporting period as a condition of renewal. At least one (1) hour shall be on ethics. There is no requirement for either in-person attendance or a live, remote program during which immediate interaction with the instructor is possible. A minimum of four (4) hours must be completed by participation in a program offered by a recognized sponsor, while the remaining hours may be satisfied through a number of other qualifying activities including (but not limited to; please refer to text of the proposed rule) academic coursework, publications related to occupational therapy, preparation for and presenting at a workshop or seminar, and research.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? YES NO

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

The rule will require that licensees complete continuing education during each reporting period as a condition of renewal, and that at least one hour of continuing education must be on the topic of ethics in the practice of occupational therapy. Reinstating continuing education required for renewal for licensees also satisfies Maine's duty as a member state of the Occupational Therapy Licensure Compact to require continuing education for license renewal. Maine joined the

Occupational Therapy Licensure Compact as a result of P.L. 2021, c. 324 (LD 31), An Act to Adopt the Occupational Therapy Licensure Compact.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) Expertise of board staff and board members.

ESTIMATED FISCAL IMPACT OF THE RULE: It is estimated that some licensees may incur some costs to comply with the requirements in this rule. The proposed rule, however, permits a wide range of options to comply with the continuing education requirements, therefore, the total cost to any individual licensee, if any, cannot be ascertained. Moreover, some renewing licensees who maintain a current NBCOT Certification may already be completing hours that would satisfy this requirement in board rule in order to maintain their certification.

FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
[see §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED
AND HOW THEY WILL BE AFFECTED: [see §8057-A(2)(B)]

BENEFITS OF THE RULE: [see §8057-A(2)(C)]

Note: If necessary, additional pages may be used.

Chapter 4: LICENSE RENEWAL AND CONTINUING EDUCATION REQUIREMENTS; REINSTATEMENT

SUMMARY: This chapter sets forth the requirements for renewing licenses issued by the board and references the statutory requirements for reinstatement of a license that has expired for more than 90 days.

1. License Term**1. Occupational Therapists; Occupational Therapy Assistants**

Licenses of all occupational therapists and occupational therapy assistants expire annually on March 31.

2. Temporary Licensees

A temporary license may be issued for a term of six (6) months and may be renewed for an additional six (6) months at the discretion of the board following review of the documentation required by Section 2(2) of this chapter.

2. Requirements for License Renewal**1. Generally. A temporary licensee, occupational therapist or occupational therapy assistant may renew a license by:**

- A. Submitting a renewal application;
 - B. Remitting the fee set forth in Chapter 10 of the rules of the Office of Professional and Occupational Regulation;
 - C. For licenses renewed up to 90 days after the date of expiration, remitting the late fee required by Chapter 11 of the Rules of the Office of Professional and Occupational Regulation;
- and
- D. Providing such other information as the board may require.

2. Additional Requirements for Temporary License Renewal (one-time 6 month renewal). In addition to the items required by Section 2(1) of this chapter, a temporary licensee shall also submit:

- A. NBCOT approval to sit for the appropriate certification examination;
- B. A study plan for the appropriate certification examination;

- C. A supervision plan appropriate for the practice setting that meets the requirements of 32 M.R.S. § 2272(15), that is signed by the supervising occupational therapist; and
 - D. Such other information as the board may require.
3. **Continuing Education Requirement for Occupational Therapists and Occupational Therapy Assistants**

Occupational therapists and occupational therapy assistants shall certify at time of license renewal to compliance with the continuing education requirements set forth in this chapter.

- A. **Number of Hours Required.**
 - i. Every occupational therapist shall complete ten (10) hours and every occupational therapy assistant shall complete six (6) hours of continuing education relevant to the practice of occupational therapy or interprofessional practice during each reporting period as a condition of renewal. The reporting period is April 1 of the previous year through the March 31 renewal date.
 - ii. During each reporting period, one (1) hour shall be on ethics in the practice of occupational therapy.
- B. **Qualifying Continuing Education Activities.** For the purpose of this chapter, there is not requirement for either in-person attendance or a live, remote program during which immediate interaction with the instructor is possible. Qualifying activities for satisfying the requirements of Section 2(3)(A) include:
 - i. **Minimum hours at sponsored presentation.**

Four (4) of the hours shall include participation as required at a sponsored presentation offered by any recognized sponsor as set forth in Section 2(3)(D) of this Chapter.
 - ii. **Other qualifying activities.** Other qualifying activities include:
 - a. Participation as required at a presentation such as a workshop, seminar, conference, or in-service educational program.
 - b. Academic coursework, which includes participation in on-site or distance learning academic courses from a university, college, or vocational technical adult education course related to the practice of occupational therapy.
 - c. Publications of books, articles, or films related to practice, management, or education of occupational therapy.

- d. Preparation for teaching a course in occupational therapy in an accredited program.
- e. Preparation for and presenting at a workshop, seminar, conference, or in-service educational program.
- f. Pursuit of evidence-based practice by reviewing critically appraised topics for evidence-based literature on practice-related subjects.
- g. Research, which includes development or participation in a research project as a primary or assistant investigator in the research project.

D. Recognized Sponsors. Licensees may satisfy the requirement of Section 2 (3)(B)(i) by completing activities:

- i. sponsored or approved by the Maine Occupational Therapy Association (MEOTA), its successor organization or a comparable organization;
- ii. sponsored or approved by NBCOT, its successor organization or a comparable organization;
- iii. sponsored or approved by the American Occupational Therapy Association (AOTA), its successor organization or a comparable organization; or
- iv. sponsored by AOTA approved providers.

E. Audit of Continuing Education. A licensee's certification of completion of continuing professional education is subject to audit and documentation retention requirements as set forth in the rules of the Office of Professional and Occupational Regulation, 02-041 C.M.R. ch. 13.

4. Reinstatement

Renewal of a license that has expired for more than 90 days is governed by 32 M.R.S. § 2283(1).

STATUTORY AUTHORITY: 32 M.R.S. §§ 2274(2); 2283(4); 10 M.R.S. § 8003(5-A)(D)

EFFECTIVE DATE:

~~Chapter 6 A: LICENSE RENEWAL; REINSTATEMENT~~

~~SUMMARY: This chapter sets forth the requirements for renewing licenses issued by the board and references the statutory requirements for reinstatement of a license that has expired for more than 90 days.~~

~~1. License Term~~

~~1. Occupational Therapists; Occupational Therapy Assistants~~

~~Licenses of all occupational therapists and occupational therapy assistants expire annually on March 31.~~

~~2. Temporary Licensees~~

~~The temporary license is issued for a term of 6 months and may be renewed for an additional 6 months at the discretion of the board following review of the documentation required by Section 3 of this chapter.~~

~~2. License Renewal~~

~~A temporary licensee, occupational therapist or occupational therapy assistant may renew a license by:~~

- ~~1. Submitting a renewal application;~~
- ~~2. Remitting the license fee prescribed by Chapter 10, Section 5(25) of the rules of the Office of Professional and Occupational Regulation, entitled "Establishment of License Fees;"~~
- ~~3. For licenses renewed up to 90 days after the date of expiration, remitting the late fee required by Chapter 11, Section 2(1) of the Rules of the Office of Professional and Occupational Regulation, entitled "Late Renewals;"~~
- ~~4. Providing information relating to any criminal or disciplinary history of the applicant since the time of last renewal; and~~
- ~~5. Providing such other information as the board may require.~~

3. ~~Temporary Licensee (one time 6 month renewal)~~

In addition to the items required by Section 2 of this chapter, a temporary licensee shall also submit:

1. ~~NBCOT approval to sit for the appropriate certification examination;~~
2. ~~A study plan for the appropriate certification examination;~~
3. ~~A supervision plan appropriate for the practice setting that meets the requirements of 32 MRSA §2272(15) and has been signed by the supervising occupational therapist; and~~
4. ~~Such other information as the board may require.~~

4. ~~Reinstatement~~

~~Renewal of a license that has expired for more than 90 days is governed by 32 MRSA §2283(1).~~

~~STATUTORY AUTHORITY: 32 MRSA §2274(2)~~

~~EFFECTIVE DATE:~~

~~November 13, 2012 filing 2012-320~~