

WSR 24-18-009

PROPOSED RULES

DEPARTMENT OF HEALTH

(Occupational Therapy Practice Board)

[Filed August 22, 2024, 11:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-01-099.

Title of Rule and Other Identifying Information: Removing licensure barriers for occupational therapy (OT) profession and amending code of ethics sections. The occupational therapy practice board (board) is proposing rule amendments to implement section 8 of 2SHB 1724 (chapter 425, Laws of 2023), codified as RCW 18.130.077, to lower barriers to entering and remaining in the OT workforce and to streamline and shorten the credentialing process. The board is proposing revisions to WAC 246-847-051, 246-847-068, 246-847-070, 246-847-080, and 246-847-125; and adding new WAC 246-847-127.

Additionally, the board is proposing amendments to WAC 246-847-065 Continued competency, to adjust continuing education requirements so they align with the national certifying board and WAC 246-847-170 Code of ethics and standards of professional conduct, to ensure care is provided ethically and professionally.

Hearing Location(s): On October 18, 2024, at 9:05 a.m., virtual via Microsoft Teams meeting. Join on your computer, mobile app or room device. Copy this URL into your browser to join the meeting https://teams.microsoft.com/dl/launcher/launcher.html?url=%2F%23%2F1%2Fmeetup-join%2F19%3Ameeting_YWIZNDg4NTMTyJjA5ZS00Y2M5LTg1MTEtMmFmYzI5NzI3NDVh%40thread.v%2F0%3Fcontext%3D%257b%2522Tid%2522%253a%252211d0e217-264e-400a-8ba0-57dcc127d72d%2522%252c%25220id%2522%253a%25226b58aff3-5555-4d17-ae13-0788bdac52c5%2522%257d%26anon%3Dtrue&type=meetup-join&deeplinkId=4fa83572-7f03-4376-87af-db2065cbc3fb&directDl=true&msLaunch=true&enableMobilePage=true&suppressPrompt=true, or download Microsoft Teams <https://www.microsoft.com/en-us/microsoft-teams/download-app>, Meeting ID 220 261 893 741, Passcode DC3u4E; or call in (audio only) +1 564-999-2000,,78115422# United States, Olympia, Phone Conference ID 781 154 22#; or in person at Green River College, 12401 S.E. 320th Street, Room 230, Auburn, WA 98902. Individuals may attend this hearing either in person or virtually.

Date of Intended Adoption: October 18, 2024.

Submit Written Comments to: Kathy Weed, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, kathy.weed@doh.wa.gov, beginning the date and time of this filing, by October 11, 2024, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact Kathy Weed, phone 360-236-4883, TTY 360-833-6388 or 711, email kathy.weed@doh.wa.gov, by October 11, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board is proposing revisions and a new section of rule to waive education, training, experience, and exam requirements for applicants who have been credentialed in another state or states with substantially equivalent standards for at least two years immediately preceding their application with no interruption in licensure for longer than 90 days, or for applicants who are certified by the National Board for Certification in Occupational Therapy (NBCOT). The amendments to licensure and endorsement requirements are

being proposed to implement RCW 18.130.077. The board is also proposing changes to the continuing education (CE) section to adjust the required CE hours so that they align with the NBCOT CE requirements, and an amendment to the code of ethics section for clarity and consistency.

Reasons Supporting Proposal: RCW 18.130.077, directs all disciplining authorities for licensed professionals to waive education, training, experience, and exam requirements for applicants who have been credentialed in another state or states with substantially equivalent standards for at least two years immediately preceding their application with no interruption in licensure for longer than 90 days. The intent of the bill is to make disciplining authorities review and adjust licensure requirements to remove barriers to entering and remaining in the health care workforce, and shorten the credentialing process. Rule making is necessary to amend licensure requirements throughout chapter 246-847 WAC to align with RCW 18.130.077.

The board often receives inquiries on whether an OT can work off of the evaluation of another profession such as a physical therapist. Proposed amendments to the code of ethics section in WAC 246-847-170 would make it clear that an OT must complete their own evaluation of the client. Modifications to the CE hours required in WAC 246-847-065 and throughout the chapter would align it with the NBCOT national standards. This would make it easier for OTs to meet CE requirements while still maintaining a high standard for training and CE.

These proposed amendments would create consistency throughout the chapter, provide faster pathways to licensure, and ease the burden on licensees and applicants while still maintaining sufficient standards of training and care. Rule making is necessary to ensure accountability and safety for licensees and the public that would be enforceable through rule.

Statutory Authority for Adoption: RCW 18.59.130; and 2SHB 1724 (chapter 425, Laws of 2023), codified as RCW 18.130.077.

Statute Being Implemented: RCW 18.130.077.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Occupational therapy practice board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kathy Weed, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4883.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kathy Weed, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4883, TTY 360-833-6388 or 711, email kathy.weed@doh.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: Amendments are needed to comply with changes mandated by RCW 18.130.077 and all other changes do not impact small businesses as they are related to OT licensure.

Scope of exemption for rule proposal:

Is fully exempt.

August 22, 2024
Mary Spores, OT, Chair
Occupational Therapy Practice Board

OTS-5446.4

AMENDATORY SECTION (Amending WSR 21-06-046, filed 2/25/21, effective 3/28/21)

WAC 246-847-051 Military equivalence. A graduate of a United States military occupational therapy assistant course that is substantially equivalent to the requirements in chapters 18.59 RCW and 246-847 WAC may apply for licensure in this state when the following additional requirements have been submitted to the department:

(1) Proof of completion of the military's residency program included in their education program in lieu of the field work required under WAC 246-847-150; and

(2) Proof of successfully passing the national certification examination as specified in WAC 246-847-080 (~~;~~ and

~~(3) Proof of completion of the online jurisprudence examination for occupational therapy with a passing score of one hundred percent~~)).

AMENDATORY SECTION (Amending WSR 23-18-045, filed 8/30/23, effective 1/1/24)

WAC 246-847-065 Continued competency. Licensed occupational therapists and licensed occupational therapy assistants must complete ((30)) 24 hours of continued competency every two years in the form of continuing education and professional development. The licensee must submit documentation upon request as required by chapter 246-12 WAC.

(1) Beginning January 1, 2014, as part of their continued competency, occupational therapists and occupational therapy assistants are required to obtain at least three hours of training every six years in suicide assessment as specified in WAC 246-847-066. The licensee must keep documentation for six years.

(a) Except as provided in (b) of this subsection, an occupational therapist or occupational therapy assistant must complete the first training required by this section during the first full continued competency reporting period after January 1, 2014, or the first full continued competency reporting period after initial licensure, whichever occurs later.

(b) An occupational therapist or occupational therapy assistant applying for initial licensure on or after January 1, 2014, may delay completion of the first training required by this section for six years after initial licensure if:

(i) He or she can demonstrate successful completion of a three-hour training program in suicide assessment that was completed no more than six years prior to the application for initial licensure; and

(ii) The training meets the qualifications listed in WAC 246-847-066.

(2) As of January 1, 2024, occupational therapists and occupational therapy assistants are required to obtain at least two hours in health equity continuing education training every four years. The continuing education course must meet the minimum standards under RCW 43.70.613 and comply with WAC 246-12-800 through 246-12-830. These hours can be counted towards the total required (~~(30)~~) 24 hours of continuing education.

(3) The (~~(30)~~) 24 hours of continuing education and professional development must be obtained through two or more of the activities listed in this subsection. A minimum of 20 hours must directly relate to the practice of occupational therapy as defined in RCW 18.59.020 and WAC 246-847-010. Any remaining hours may be in professional development activities that enhance the practice of the licensed occupational therapist or licensed occupational therapy assistant. Documentation for all activities must include licensee's name, date of activity, and number of hours. Additional specific documentation is defined below:

(a) Continuing education course work. The required documentation for this activity is a certificate or documentation of attendance.

(b) Employer sponsored in-service training or professional study groups. The required documentation for this activity is a certificate or documentation of attendance. A maximum of 15 hours is allowed per reporting period for this category.

(c) Attendance at a professional conference or workshop presented by a professional organization. The required documentation for this activity is a certificate or documentation of attendance.

(d) Course work offered by an accredited college or university, provided that the course work is taken after the licensee has obtained a degree in occupational therapy, and the course work provides skills and knowledge beyond entry-level skills or knowledge. The required documentation for this activity is a transcript. One course credit is equal to five hours. A maximum of 15 hours is allowed per reporting period for this category.

(e) Interactive online courses and webinars. The required documentation for this activity is a certificate or documentation of completion.

(f) Presentation to professionals, including poster presentations. One hour of preparation time may be counted per hour of presentation time. The required documentation for this activity is a copy of the presentation or program listing. Any particular presentation may be reported only once per reporting period. A maximum of 10 hours is allowed per reporting period for this category.

(g) Guest lecturing on an occupational therapy-related topic in an academic setting. The occupational therapist or occupational therapy assistant must not be primarily employed in academia to submit credit for this activity. The required documentation for this activity is a letter or other documentation from the course instructor. A maximum of 10 hours is allowed per reporting period for this category. One hour of preparation time may be counted per hour of lecture time.

(h) Authoring a publication. The required documentation for this activity is a copy of the publication. For a peer reviewed journal article or chapter in a textbook a maximum of 10 hours is allowed per reporting period for this category. For nonpeer reviewed professional publication a maximum of five hours is allowed per reporting period for this category.

(i) Development of instructional materials incorporating alternative media such as: Video, audio (~~and~~) or software programs to advance professional skills of others. The required documentation for this activity is a program description. The media(~~)~~ or software materials must be available if requested during audit process. A maximum of 10 hours is allowed per reporting period for this category.

(j) Professional manuscript review. The required documentation for this activity is a letter from the publishing organization verifying review of manuscript. One hour of continuing education may be counted per hour of review time. A maximum of 10 hours is allowed per reporting period for this category.

(k) Service on a professional board, committee, disciplinary panel, or association. The required documentation for this activity is a letter or other documentation from the organization. A maximum of 10 hours is allowed per reporting period for this category.

(l) Self-study of peer reviewed, role-related professional journal articles, textbooks or chapters, or professionally developed multimedia and digital media educational materials. The required documentation for this activity is a typed, one-page synopsis of each item written by the licensee or a certificate from OT practice continuing education article. A maximum of 10 hours is allowed per reporting period for this category. Time spent writing synopsis is not reportable.

(m) Direct supervision of an occupational therapy student or occupational therapy assistant student. The required documentation for this activity is a name of student(s), letter of verification from school, and dates of fieldwork. Forty hours of supervision per student is equal to one hour of continued competency. A maximum of 12 hours per supervisor is allowed per reporting period for this category.

(n) Mentoring. Mentoring in this section means a relationship in which a more experienced or more knowledgeable person helps to guide a less experienced or knowledgeable person for the informal transmission of knowledge and support relevant to professional development. The required documentation for this activity is a written report of goals, objectives and analysis of mentee performance signed by both mentor and mentee. Mentoring credits do not count towards the requirement of 20 hours directly related to the practice of occupational therapy. A maximum of five hours is allowed per reporting period for this category.

(o) Attending a Washington occupational therapy practice board meeting. A maximum of two credits per reporting period is allowed.

(p) Successfully pass the department's occupational therapy jurisprudence examination with a passing score of 100 percent. A maximum of .5 hours per reporting period is allowed.

AMENDATORY SECTION (Amending WSR 18-09-032, filed 4/11/18, effective 8/1/18)

WAC 246-847-068 Expired license. (1) If the license has expired for three years or less, the practitioner must meet the requirements of (~~chapter 246-12 WAC, Part 2~~) WAC 246-12-020 through 246-12-051.

(2) If the license has expired for over three years but no more than five years at the time of application, the practitioner may return to active status by submitting proof to the department of:

(a) Having met the requirements of (~~chapter 246-12 WAC, Part 2~~) WAC 246-12-020 through 246-12-051; and

(b) Within the two-year period immediately preceding the date of application for reissuance(~~(:~~

~~(i) Completion of thirty hours of continued competency as required in WAC 246-847-065; and~~

~~(ii) Passing the Washington occupational therapy jurisprudence examination as offered by the department)) completion of 24 hours of continuing education as required in WAC 246-847-065.~~

(3) If the license has expired for over five years at the time of application, the practitioner may return to active status by submitting proof to the department of:

(a) Having met the requirements in subsection (2) of this section;

(b) Completion of a board-approved reentry program; and

(c) In addition to these requirements, the applicant has the choice of:

(i) Completion of extended course work preapproved by the board; or

(ii) Successfully retaking and passing the examination(~~(s))~~) as required by WAC 246-847-080.

(4) For a practitioner who holds an expired credential in Washington but is currently licensed and in active practice in another United States jurisdiction, the practitioner may return to active practice in Washington by (~~submitting proof to the department of:~~

~~(a) Having met the requirements described in subsection (2) of this section; and~~

~~(b) Verification of an active license from the United States jurisdiction)) meeting the licensure by endorsement requirements in WAC 246-847-125.~~

(5) Completion of any additional requirements as required by the board.

AMENDATORY SECTION (Amending WSR 18-09-032, filed 4/11/18, effective 8/1/18)

WAC 246-847-070 Inactive credential. (1) A practitioner may obtain an inactive credential. Refer to the requirements of (~~chapter 246-12 WAC, Part 4)~~) WAC 246-12-090 through 246-12-110.

(2) If the license has been inactive for three years or less at the time of application to change an inactive credential to an active credential, refer to the requirements of WAC 246-12-110.

(3) If the license has been inactive for over three years but no more than five years at the time of application to change an inactive credential to an active credential, the practitioner may return to active status by submitting proof to the department of:

(a) Having met the requirements of WAC 246-12-110; and

(b) Within the two-year period immediately preceding the date of application for reissuance(~~(:~~

~~(i) Completion of thirty hours of continuing education as required in WAC 246-847-065; and~~

~~(ii) Passing the Washington occupational therapy jurisprudence examination as offered by the department)) completion of 24 hours of continuing education as required in WAC 246-847-065.~~

(4) If the license has been inactive for over five years at the time of application to change an inactive credential to an active cre-

dential, the practitioner may return to active status by submitting proof to the department of:

(a) Having met the requirements in subsection (3) of this section;

(b) Completion of board-approved reentry program; and

(c) In addition to these requirements, the applicant has the choice of:

(i) Completion of extended course work preapproved by the board; or

(ii) Successfully retaking and passing the examination as required by WAC 246-847-080.

(5) For a practitioner who holds an inactive credential in Washington, but is currently licensed and in active practice in another United States jurisdiction, the practitioner may return to active status in Washington by ~~((submitting proof to the department of:~~

~~(a) Having met the requirements described in subsection (3) of this section; and~~

~~(b) Verification of active practice from the United States jurisdiction)) meeting the licensure by endorsement requirements in WAC 246-847-125.~~

(6) Completion of any additional requirements as required by the board.

AMENDATORY SECTION (Amending WSR 18-21-044, filed 10/8/18, effective 11/8/18)

WAC 246-847-080 Examinations. (1) The occupational therapy practice board recognizes the examination administered by the National Board for Certification in Occupational Therapy or its predecessor organization as the official examination for licensure as an occupational therapist or as an occupational therapy assistant.

(2) To be eligible for a license an applicant must ~~((~~

~~(a)) attain a passing score on the examination determined by the National Board for Certification in Occupational Therapy or its predecessor organization ~~((; and~~~~

~~(b) Successfully pass the department's occupational therapy jurisprudence examination with a passing score of one hundred percent)).~~

AMENDATORY SECTION (Amending WSR 21-06-047, filed 2/25/21, effective 3/28/21)

WAC 246-847-125 Applicants currently licensed in other states or territories. An ~~((initial))~~ applicant currently licensed to practice as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or a territory of the United States as provided in RCW 18.59.070(2), may be licensed by endorsement. An applicant shall comply with the requirements for licensure as specified in chapters 18.59 RCW and 246-847 WAC and submit proof of:

(1) For those credentialed in another state with standards substantially equivalent to Washington for at least two years immediately preceding their application: Current licensure from another United States jurisdiction ~~((;))~~.

(2) For applicants licensed less than two years in a substantially equivalent state, or licensed in a state that is not substantially equivalent to Washington:

(a) Current licensure from another United States jurisdiction;

(b) Having passed the examination((s)) as defined in WAC 246-847-080; and

((3) For applicants who have been licensed in another jurisdiction for at least two years, completion of thirty hours of continued competency within the two-year period immediately preceding licensure-)) (c) Comply with the requirements for licensure as specified in chapters 18.59 RCW and 246-847 WAC.

NEW SECTION

WAC 246-847-127 Applicants currently holding national certification. An initial applicant who holds national certification from the National Board for Certification of Occupational Therapy, or its predecessor organization, may be granted Washington licensure upon proof of current certification in good standing if the applicant meets the requirements of RCW 18.130.077(3).

AMENDATORY SECTION (Amending WSR 18-09-032, filed 4/11/18, effective 8/1/18)

WAC 246-847-170 Code of ethics and standards of professional conduct. (1) It is the professional responsibility of occupational therapists and occupational therapy assistants to provide services for clients without regard to race, creed, national origin, gender, handicap or religious affiliation.

(2) Treatment assessment, objectives, and the therapeutic process as determined by the occupational therapist must be formulated to ensure professional accountability.

(3) Services must be goal-directed in accordance with the overall educational, habilitation or rehabilitation plan and shall include a system to ensure professional accountability.

(4) Occupational therapists and occupational therapy assistants shall recommend termination of services when established goals have been met or when further skilled services are no longer beneficial.

(5) Occupational therapists and occupational therapy assistants shall accurately represent their competence, education, training and experience.

(6) Occupational therapists and occupational therapy assistants shall only provide services and use techniques for which they are qualified by education, training, and experience.

(7) Occupational therapists and occupational therapy assistants shall accurately record information and report information as required by facility standards and state and federal laws.

(8) Occupational therapists or occupational therapy assistants shall support all data recorded in the permanent files or records with observations or objective measures of data collection.

(9) Client records shall only be divulged as authorized by law or with the client's consent for release of information.

(10) Occupational therapists and occupational therapy assistants shall not delegate to other personnel those client-related services where the clinical skills and expertise of an occupational therapist or occupational therapy assistant are required.

(11) If, after evaluating the client, the case is a medical case, the occupational therapist shall refer the case to a physician for appropriate medical direction if such direction is lacking.

(a) The occupational therapist shall seek appropriate medical direction on at least an annual basis.

(b) A case is not a medical case if the following is present:

(i) There is an absence of pathology; or

(ii) If a pathology exists, the pathology has stabilized; and

(iii) The occupational therapist is only treating the client's functional deficits.

(12) Occupational therapists shall establish, review, or revise the client's treatment objectives at sufficient intervals to meet the client's needs. The occupational therapy assistant shall collaborate with the occupational therapist in this review of the client's treatment objectives.

(13) Occupational therapists and occupational therapy assistants shall have sufficient command of the English language to read and write effectively in medical charts and to communicate clearly with service recipients and team members.