



# Certification Page Regular and Emergency Rules

Revised June 2020

Emergency Rules (Complete Sections 1-3 and 5-6)

Regular Rules

## 1. General Information

|  |  |   |                   |
|--|--|---|-------------------|
| a. Agency/Board Name* Occupational Therapy Board                     |  |   |                   |
| b. Agency/Board Address 2001 Capitol Ave, Rm 127                     |  | c. City Cheyenne                                | d. Zip Code 82002 |
| e. Name of Agency Liaison Greg Searls                                |  | f. Agency Liaison Telephone Number 307-777-7788 |                   |
| g. Agency Liaison Email Address greg.searls@wyo.gov                  |  | h. Adoption Date 3/8/2023                       |                   |
| i. Program Occupational Therapy Board                                |  |   |                   |
| Amended Program Name (if applicable): Occupational Therapy, Board of |  |   |                   |

\*  By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.

## 2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular (non-emergency) rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these non-emergency or regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No.  Yes. If the rules are new, please provide the Legislative Chapter Numbers and Years Enacted (e.g. 2015 Session Laws Chapter 154):

## 3. Rule Type and Information

For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.

a. Provide the Chapter Number, Title\* and Proposed Action for Each Chapter. Please use the "Additional Rule Information" form to identify additional rule chapters.

|                                       |   |                              |   |  |
|---------------------------------------|---|------------------------------|---|--|
| Chapter Number:<br><b>1</b>           | Chapter Name:<br><b>General Provisions</b>                            | <input type="checkbox"/> New | <input checked="" type="checkbox"/> Amended | <input type="checkbox"/> Repealed            |
| Amended Chapter Name (if applicable): |   |                              |   |  |
| Chapter Number:<br><b>2</b>           | Chapter Name:<br><b>Licensure Requirements</b>                        | <input type="checkbox"/> New | <input checked="" type="checkbox"/> Amended | <input type="checkbox"/> Repealed            |
| Amended Chapter Name (if applicable): |   |                              |   |  |
| Chapter Number:<br><b>3</b>           | Chapter Name:<br><b>Standards of Practice of Occupational Therapy</b> | <input type="checkbox"/> New | <input checked="" type="checkbox"/> Amended | <input type="checkbox"/> Repealed            |
| Amended Chapter Name (if applicable): |   |                              |   |  |
| Chapter Number:<br><b>5</b>           | Chapter Name:<br><b>Fees</b>  | <input type="checkbox"/> New | <input checked="" type="checkbox"/> Amended | <input type="checkbox"/> Repealed            |
| Amended Chapter Name (if applicable): |   |                              |   |  |
| Chapter Number:<br><b>6</b>           | Chapter Name:<br><b>Practice and Procedure</b>                        | <input type="checkbox"/> New | <input type="checkbox"/> Amended            | <input checked="" type="checkbox"/> Repealed |
| Amended Chapter Name (if applicable): |   |                              |   |  |
| Chapter Number:<br><b>7</b>           | Chapter Name:<br><b>Information Practices</b>                         | <input type="checkbox"/> New | <input type="checkbox"/> Amended            | <input checked="" type="checkbox"/> Repealed |
| Amended Chapter Name (if applicable): |   |                              |   |  |



# Additional Rule Information

Revised June 2020

Include this page only if needed.

## 1. General Information

|  |  |             |                                    |
|--|--|-------------|------------------------------------|
| a. Agency/Board Name* Occupational Therapy Board |  |             |                                    |
| b. Agency/Board Address                          | 2001 Capitol Ave, Rm 127   | c. City     | Cheyenne                           |
|  |  | d. Zip Code | 82002                              |
| e. Name of Agency Liaison                        | Greg Searls  |             | f. Agency Liaison Telephone Number |
|  |  |             | 307-777-7788                       |
| g. Agency Liaison Email Address                  | greg.searls@wyo.gov  |             |                                    |
| h. Program                                       | Occupational Therapy Board   |             |                                    |
|  | Amended Program Name (if applicable): Occupational Therapy, Board of |             |                                    |

## 2. Rule Type and Information, Cont.

a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter.

|                 |  |   |                                  |                                   |
|-----------------|--|---|----------------------------------|-----------------------------------|
| Chapter Number: | Chapter Name:                                  | <input checked="" type="checkbox"/> New | <input type="checkbox"/> Amended | <input type="checkbox"/> Repealed |
| 8               | Renewal  |   |                                  |                                   |
|                 | Amended Chapter Name (if applicable):          |   |                                  |                                   |
| Chapter Number: | Chapter Name:                                  | <input checked="" type="checkbox"/> New | <input type="checkbox"/> Amended | <input type="checkbox"/> Repealed |
| 9               | Practice and Procedures for Application        |   |                                  |                                   |
|                 | Amended Chapter Name (if applicable):          |   |                                  |                                   |
| Chapter Number: | Chapter Name:                                  | <input checked="" type="checkbox"/> New | <input type="checkbox"/> Amended | <input type="checkbox"/> Repealed |
| 10              | Practice and Procedures for Discipline Matters |   |                                  |                                   |
|                 | Amended Chapter Name (if applicable):          |   |                                  |                                   |
| Chapter Number: | Chapter Name:                                  | <input type="checkbox"/> New            | <input type="checkbox"/> Amended | <input type="checkbox"/> Repealed |
|                 |  |   |                                  |                                   |
|                 | Amended Chapter Name (if applicable):          |   |                                  |                                   |
| Chapter Number: | Chapter Name:                                  | <input type="checkbox"/> New            | <input type="checkbox"/> Amended | <input type="checkbox"/> Repealed |
|                 |  |   |                                  |                                   |
|                 | Amended Chapter Name (if applicable):          |   |                                  |                                   |
| Chapter Number: | Chapter Name:                                  | <input type="checkbox"/> New            | <input type="checkbox"/> Amended | <input type="checkbox"/> Repealed |
|                 |  |   |                                  |                                   |
|                 | Amended Chapter Name (if applicable):          |   |                                  |                                   |
| Chapter Number: | Chapter Name:                                  | <input type="checkbox"/> New            | <input type="checkbox"/> Amended | <input type="checkbox"/> Repealed |
|                 |  |   |                                  |                                   |
|                 | Amended Chapter Name (if applicable):          |   |                                  |                                   |
| Chapter Number: | Chapter Name:                                  | <input type="checkbox"/> New            | <input type="checkbox"/> Amended | <input type="checkbox"/> Repealed |
|                 |  |   |                                  |                                   |
|                 | Amended Chapter Name (if applicable):          |   |                                  |                                   |



#### 4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice.  No.  Yes.  N/A

b. A public hearing was held on the proposed rules.  No.  Yes. Please complete the boxes below.

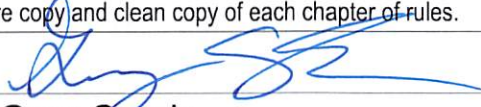
|       |       |       |           |
|-------|-------|-------|-----------|
| Date: | Time: | City: | Location: |
|       |       |       |           |

#### 5. Checklist

- a.  For regular rules, the Statement of Principal Reasons is attached to this Certification and, in compliance with Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule
- b.  For emergency rules, the Memorandum to the Governor documenting the emergency, which requires promulgation of these rules without providing notice or an opportunity for a public hearing, is attached to this Certification.

#### 6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct. By electronically submitting the emergency or regular rules into the Wyoming Administrative Rules System, the undersigned acknowledges that the Registrar of Rules will review the rules as to form and, if approved, the electronic filing system will electronically notify the Governor's Office, Attorney General's Office, and Legislative Service Office of the approval and electronically provide them with a copy of the complete rule packet on the date approved by the Registrar of Rules. The complete rules packet includes this signed certification page; the Statement of Principal Reasons or, if emergency rules, the Memorandum to the Governor documenting the emergency; and a strike and underscore copy and clean copy of each chapter of rules.

|                                    |  |
|------------------------------------|--|
| Signature of Authorized Individual |  |
| Printed Name of Signatory          | Greg Searls  |
| Signatory Title                    | Executive Director   |
| Date of Signature                  | 3/9/2023   |

#### 7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

|                      |  |
|----------------------|--|
| Governor's Signature |  |
| Date of Signature    |  |

# Wyoming Board of Occupational Therapy

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## STATEMENT OF REASONS FOR ADOPTION OF RULES

Pursuant to authority granted under the Board of Occupational Therapy Practice Act, Wyo. Stat. Ann §§ 33-40-101 through -216, the Wyoming State Board of Occupational Therapy proposes the following rule changes.

These rules are intended to implement the Board's authority to protect the public by regulating the qualifications and establishing standards of performance of persons licensed as Occupational Therapist and Occupational Therapy Assistants.

### Chapter 1 – Amended

- All sections – Corrected grammatical errors and renumbered as appropriate.
- Section 2 – Removed unused or unnecessary definitions.
- Section 2 – Added definitions previously defined in other chapters to this chapter.
- Section 2 – Defined OT and OTA to use consistently throughout all Chapters.
- Section 3 - Updated the language in to remove language that was duplicated from other governing statutes and clarified what type of meeting will be held each July.
- Sections 4 through 9 were in other chapters previously and moved to this chapter as the Board felt it fit better under General Information than in another chapter.

### Chapter 2 – Amended

- Section 1 – Added the Authority section as required
- All sections as needed – Changed use of occupational therapist and occupational therapy assistant to OT and OTA to be consistent in all chapters of the rules.
- Section 2 – Clarified that the verification of scores must be an official verification which requires it come from the testing agency. Official verifications must come from another state agency to reduce the possibility of altered documents.
- Section 2 – Moved the Continuing Education information to new Chapter 8
- Section 3 – Added clarification as to when a license would expire based upon the date it is issued. The change allows for those applying closer to the expiration date to not have to renew immediately after obtaining their initial license.
- Sections 4, 5 and 6 – Expanded the language and make requirements easier to understand by showing individual requirements as part of the application instead of everything in one sentence.
- Section 7 – Deleted this sections and moved to new Chapter 8
- Section 7 (new) – Clarifies the language as to who is eligible for Re-entry and how to qualify for that type of application. The previous language did not align with statute and was complex.
- Section 8 (new) – Fixed grammatical issues.
- Section 10 – Deleted and moved to new Chapter 9
- Section 11 and 12 – Deleted and moved to Chapter 1
- Section 9 (new) – Fixed grammatical issues.

### Chapter 3 – Amended

- All sections as needed - Changed use of occupational therapist and occupational therapy assistant to OT and OTA to be consistent in all chapters of the rules.



# Wyoming Board of Occupational Therapy

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- All sections – Corrected grammatical issues.
- Section 2 – Added requirement of supervision to include annual review of the rules and statutes for the Board. This should have been a best practice, but the Board found it was not being done and wants to ensure that those receiving supervision have an understanding of the rules and statutes that guide their license and practice.
- Section 4 – Clarified that for telehealth, the OTA or OT must hold a Wyoming license to see a patient in Wyoming at the time of services. Previous language was not clear and the Board wanted to clarify the requirement.
- Section 4 – Removed aspirational language and made the requirement clear with directive language.
- Section 5 – Removed the definition and moved it to Chapter 1.
- Section 5 – Changed the requirement of the supervisor for this type of training to be a licensed Physical Therapist or OT in any state to allow trainings done outside of Wyoming to meet the requirement. Previously this had to come from a Wyoming licensed person which eliminated the possibility of trainings done outside of Wyoming or for an instructor from another state to provide the training. The Board feels this will allow more opportunities to receive the proper training.
- Section 6 – Reworded the section to improve the readability of the requirements.
- Section 7 – Added a governing document to supervision to increase the standard of supervision within the State.

## Chapter 5 – Amended

- Section 1 – Added the required authority information.
- Section 2 – Removed the antiquated language of requiring the Board to send a fee schedule and kept on file in the Board office. This information is readily available online and in the application instructions.
- Section 3 – Changed the language from “License” fee to “Application” fee to show that issuing of a license is not required for that fee to be paid to the board.
- Section 3- Added the fee for a Re-entry application which was previously not on the fee schedule, yet the application type existed.

## Chapter 6 – Repealed

- This information is now covered through the model rules created by the Attorney General’s Office and in Chapter 10.

## Chapter 7 – Repealed

- The language from this chapter was deleted if no longer relevant or contrary to other statute or was moved to Chapter 1 if still appropriate.

## Chapter 8 – New

- Created a new chapter to contain information on the renewal process and the requirements for applying for renewal. Most of this information was moved from chapter 2. This was done to differentiate the processes as well as making it easier to find when searching the Rules.
- Lowered the required number of CE from 32 hours every two years to 24. This number is more in line with national standards.



# *Wyoming Board of Occupational Therapy*

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- Added the ability to earn CE through the provision of supervision. The Board wanted to increase the number of ways to earn CE especially for those that are spending many hours each week helping train licensees.
- Added clarifying language for licensees to be able to determine if their CE meets the requirements of the Rules and what other documentation may be required by the Board to approve it when submitted as part of a renewal application. The previous language was not clear and the Board is trying to help licensees have a clearer understanding of the requirements.

## Chapter 9 – New

- This chapter used model language as written by the as written by the Wyoming Attorney General's office, to outline the procedures in how the Board handles application and licensure matters. This language is designed to put similar procedures in place for all of the regulatory Boards.

## Chapter 10 – New

- This chapter used model language, as written by the Wyoming Attorney General's office, to outline the procedures in how the Board handles disciplinary matters.



## **Response to Public Comment**

No comments were received.

## Chapter 1

### General Provisions

#### Section 1. Authority.

(a) These rules are promulgated by the Wyoming State Board of Occupational Therapy under the Wyoming Occupational Therapy Practice Act, Wyoming Statute § 33-40-101 et seq.

**Section 2. Definitions.** As used in these rules, the following definitions shall apply:

(a) “AOTA” is the American Occupational Therapy Association.

(b) “CE” means continuing education.

(c) “Client” is an individual who receives occupational therapy services.

(d) “Close Supervision” means weekly, direct contact at the site of work and applies only to OTs with initial skill development proficiencies or OTAs, as appropriate, for the delivery of occupational therapy services.

(e) "Contact Hour" means one (1) hour engaging in continuing education.

(f) “Dry Needling” means an intervention in which an occupational therapist uses solid or hollow-core needles to treat the dysfunction of skeletal muscle and connective tissue, to minimize pain, and to improve or regulate structural or functional damage to a patient’s body.

(g) “Good Standing” means the individual’s license, certification, or registration is not currently suspended or revoked by any state or national regulatory entity.

(h) "Licensee" means any occupational therapy practitioner licensed by the Board.

(i) “NBCOT” means the National Board for Certification in Occupational Therapy.

(j) “OT” means Occupational Therapist.

(k) “OTA” means Occupational Therapy Assistant.



(l) “Physical Agent Modalities” means techniques that produce a response in soft tissue using light, water, temperature, sound, or electricity.

(m) “Routine Supervision” means direct contact at least every two weeks at the site of work, with interim supervision occurring by other methods, such as telephonic, electronic or written communication.

(n) “WYOTA” means the Wyoming Occupational Therapy Association.

### **Section 3. Board Meetings.**

(a) Notice of Board meetings shall be posted on the Board website.

(b) The Board shall hold a regular meeting in July of each year. All other meetings will be held in accordance with Wyoming Statute § 16-4-401 through 408.

### **Section 4. Change of Name and/or Address.**

(a) A licensee shall notify the Board of any changes in name or address in writing, within thirty (30) days of the change.

(i) The Board will update the name on a license upon receipt of a copy of a legal document indicating name change (i.e. marriage certificate, divorce papers, etc.).

(b) Any correspondence from the Board to the licensee required or permitted under the Act shall be mailed to the last known name and address provided to the Board by the licensee and shall be presumed proper service on the licensee.

### **Section 5. Duplicate License.**

(a) A licensee shall promptly notify the Board in writing if a license is lost, stolen or destroyed.

(b) The Board shall issue a duplicate certificate to a licensee who submits a written request with the reason for requesting a duplicate certificate and fee.

(c) The Board shall issue a statement verifying license status to a licensee’s employer, jurisdiction or institution upon receipt of the licensee’s written request and the fee. The Board shall also make this information available free of charge on the Board’s website.

## **Section 6. Incorporation by Reference.**

(a) The Board incorporates the administrative practice and procedure rules found in Chapter 2 of the Uniform Rules for Contested Case Practice and Procedure adopted by the Office of Administrative Hearings and effective July 20, 2017 found at: <https://rules.wyo.gov>, Reference Number 270.0001.2.07202017.

(i) The Board determined that incorporation of the full text of this rule would be cumbersome and inefficient given the length and nature of the rules.

(ii) This incorporation by reference in subsection (a) does not include any later amendments or editions of the incorporated matter beyond the applicable date identified.

(iii) A copy of the incorporated rule is available for public inspection or copying at the Board's office.

(b) The Board incorporates the AOTA Guidelines for Supervision, Roles, and Responsibilities During the Delivery of Occupational Therapy Services as published in The American Journal of Occupational Therapy in the November/December 2014 issue and found at [occupationaltherapy.wyo.gov](http://occupationaltherapy.wyo.gov).

(i) The Board determined that incorporation of the full text of this rule would be cumbersome and inefficient given the length and nature of the rules.

(ii) This incorporation by reference in subsection (a) does not include any later amendments or editions of the incorporated matter beyond the applicable date identified.

(iii) A copy of the incorporated rule is available for public inspection or copying at the Board's office.

(c) The Board incorporates the rules found in Chapter 2 of the Uniform Procedures, Fees, Costs, and Charges for Inspecting, Copying, and Producing Public Records adopted by the Department of Administration and Information and effective September 6, 2016 found at: <https://rules.wyo.gov> under Reference Number: 006.0011.2.09062106.

(i) The Board determined that incorporation of the full text of this rule would be cumbersome and inefficient given the length and nature of the rules;

(ii) This incorporation by reference in subsection (a) does not include any later amendments or editions of the incorporated matter beyond the applicable date identified.

(iii) A copy of the incorporated rule is available for public inspection or copying at the Board's office.

**Section 7. Record Inspection.** Record inspection shall take place under the following conditions:

(a) An appointment shall be made to review the file between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday at the Board office.

(b) Record inspection shall take place in the presence of a Board member or a representative of its administrative staff.

**Section 8. Correction and Amendment.** Any applicant or licensee may clarify erroneous, inaccurate, or misleading information contained within their file by submitting a written statement to the Board which shall be placed in the file.

**Section 9. Requests for Roster of Licensees.** The roster shall be made available to state agencies, licensees, and any other organization upon written public records request, free of charge.

## Chapter 2

### Licensure Requirements

**Section 1. Authority.** These rules are promulgated by the Wyoming State Board of Occupational Therapy under the Wyoming Occupational Therapy Practice Act, W.S. Wyoming Statute § 33-40-115(b).

#### **Section 2. Initial License.**

- (a) The applicant shall submit:
  - (i) Completed application and fee;
  - (ii) Official verification of passing scores of the national certification examination, administered by NBCOT or current national examination recognized by the board;
  - (iii) Verification of all licenses held, active or inactive, in any healthcare professions; and
  - (iv) Verification of lawful presence in the United States.

#### **Section 3. License Expiration.**

- (a) Licenses issued that are not Temporary Licenses or Limited Licenses shall expire as follows:
  - (i) Licenses issued August 1 through April 30 shall expire at the end of the current renewal period.
  - (ii) Licenses issued May 1 through July 31 shall expire at the end of the next renewal period.

#### **Section 4. Temporary License.**

- (a) An applicant who is currently licensed to practice occupational therapy in another jurisdiction may obtain a temporary license while the application is being processed by the Board.
  - (i) An applicant shall not begin practice prior to the issuance of the temporary license.
  - (ii) Temporary licenses expire ninety (90) days from the date of

issuance or when a regular license is issued.

- (b) To request a temporary license, the applicant shall submit;
  - (i) A complete application;
  - (ii) The required fees; and
  - (iii) An official verification of a current license held in another jurisdiction.

#### **Section 5. Limited License.**

(a) An individual who completes the academic and fieldwork requirements for licensure as an OT or OTA who has not yet taken or received the results of the entry-level certification examination may apply for and receive a limited license.

(b) A limited license shall be valid for six (6) months. Limited licenses shall expire when the person is issued a license; or when the person is notified that they did not pass the examination.

(c) The limited licenses are not renewable; however, the license may be extended upon showing of good cause.

- (i) The licensee shall provide a written request to the Board.
- (ii) The Board will review the request on a case by case basis.
- (iii) The license may be renewed one month at a time, not to exceed three (3) months.

- (d) To request a limited license, the applicant shall submit;
  - (i) A complete application;
  - (ii) The required fees; and
  - (iii) An official verification from NBCOT or successor organization examination recognized by the Board that the applicant has been approved to sit for the examination and has scheduled a date to sit for the examination.

#### **Section 6. License by Endorsement.**

(a) An applicant who is currently licensed to practice occupational therapy in another jurisdiction that requires that applicants pass the national certification



examination administered by NBCOT or successor organization examination recognized by the Board may apply for licensure by endorsement.

- (b) The applicant shall submit:
  - (i) A complete application;
  - (ii) The required fees;
  - (iii) Verification of lawful presence in the United States; and
  - (iv) Verification of licensure from the jurisdictions from which the applicant currently holds a license. The verification shall be sent directly to the Board from the jurisdiction. The Board office shall verify the license from a jurisdiction that the jurisdiction does not provide written verification requests to the Board.

**Section 7. Re-entry.**

- (a) Re-entering OTs and OTAs are individuals who:
  - (i) Practiced as an OT or OTA for a minimum of one (1) year; and
  - (ii) Do not qualify for renewal.
- (b) To qualify for re-entry, OTs and OTAs shall complete twelve (12) hours of continuing education for every year or any portion thereof the therapist has been out of practice with a maximum of thirty-six (36) hours of continuing education required as part of the application.
- (c) An applicant seeking re-entry shall submit:
  - (i) A complete application;
  - (ii) The required fees; and
  - (iii) Documentation that meets the standards of Chapter 8, Section 2(c) for the required number of hours of CE.
- (d) The Application Review Committee may recommend the applicant be required to work under supervision as a condition of the approval of the application. The recommendation shall be acted upon by the Board prior to issuance of the license.

**Section 8. Reinstatement.** An individual whose license has been revoked by the Board may apply for reinstatement no less than one (1) year after the date of revocation. To apply for reinstatement the individual shall submit:

- (a) Evidence that just cause for reinstatement exists;
- (b) The application and a non-refundable fee for reinstatement to the Board; and
- (c) Evidence of meeting the requirements for annual renewal of the license.

**Section 9. Emergency License.**

(a) During the duration of a state of emergency declared by the Governor of the State of Wyoming, any OT or OTA licensed or certified by another state may continue to provide services in Wyoming until 30 days after the day the Governor of the State of Wyoming lifts the state of emergency. OTs or OTAs practicing under this section shall be-acting under an emergency license.

(b) At the end of the state of emergency, any OT or OTA licensed or certified by another state who practiced in Wyoming under an emergency license shall ensure that their clients transition to a Wyoming-licensed professional. This subsection shall not apply to professionals who had an existing provider-client relationship before the emergency and provided continuity of care to clients during the emergency.

(c) Discipline.

(i) Any person may file a complaint with the Board office related to the conduct of a professional practicing under an emergency license.

(ii) Any professional practicing under an emergency license subjects themselves to the Board's jurisdiction. The Board may discipline any professional practicing under an emergency license as provided in Chapter 10 of the Board's rules.

(iii) The Board may refer complaints related to the conduct of any professional practicing under an emergency license to any state in which the professional is licensed or certified.

(iv) If a state in which an OT or OTA is licensed or certified suspends the professional's license or certificate, the professional shall immediately cease practicing in Wyoming and ensure their Wyoming clients transition to another licensed professional.

## **Chapter 3**

### **Standards of Practice of Occupational Therapy**

**Section 1. Authority.** The Board promulgates these Rules according to the authority granted by Wyoming Statute § 33-40-115(b).

**Section 2. Delineation of Roles.**

- (a) An OT currently licensed by the Board:
  - (i) Evaluates the client using the appropriate evaluation tool(s) for condition.
  - (ii) Prepares a custom written program plan and provides treatment as appropriate within the licensee's scope of practice and training.
  - (iii) When applicable, assigns treatment duties based on that program plan to a licensed occupational therapy assistant who has been specifically trained to carry out those duties.
  - (iv) Monitors the occupational therapy assistant's performance.
  - (v) Accepts professional responsibility for the occupational therapy assistant's performance.
- (b) An OTA currently licensed by the board assists in the practice of occupational therapy and performs treatment and delegated assessment commensurate with their education and training.

**Section 3. Supervision of Occupational Therapy Assistants.**

- (a) A licensed OTA may assist in the practice of occupational therapy only under the supervision of an OT. An OT may supervise an OTA in person or virtually through a live video and audio connection.
- (b) The supervising OT shall determine the level of supervision the OTA requires, based on the competency the OTA demonstrates. The supervisory guidelines are as follows:
  - (i) An entry-level OTA is an individual working on initial skill development or entering a new practice area. At this level the OT shall provide close supervision, including weekly meetings and oversight, which could take place in person or virtually with a video and audio component.

(ii) An intermediate-level OTA is an individual working on increased skill development and mastery of basic role functions and demonstrates ability to respond to situations based on previous experience. At this level the OT shall provide routine supervision, including bi-weekly meetings and oversight, which could take place in person or virtually with a video and audio component.

(iii) An advanced-level OTA is an individual refining specialized skills with the ability to understand complex issues affecting role functions. At this level the OT shall provide general supervision, including bimonthly meetings and oversight, which could take place in person or virtually with a video and audio component.

(c) Each supervising OT shall maintain a supervisory plan and shall document the supervision of each OTA using the supervision form provided by the Board. The supervising OT shall include evidence of regular supervision and contact between the supervisor and the assistant and the OT's supervision records may be subject to Board review upon request. The supervising OT shall maintain records related to their supervision for three (3) years. Supervision shall include:

(i) Communicating to the OTA the results of patient or client evaluation and discussing the goals and program plan for the patient or client;

(ii) Providing information, instruction and assistance as needed;

(iii) Annually, or more often if warranted, preparing a written appraisal of the OTA's performance and discussing the appraisal with the OTA;

(iv) Review of the Board's rules and the Wyoming Occupational Therapy Practice Act on an annual basis.

(iv) A supervising OT, after initial record review is performed, may assign the administration of standardized tests, activities of daily living evaluations, or other elements of patient evaluation and re-evaluation that do not require the professional judgment and skill of an OT to an intermediate or advanced OTA. Assignment under this subsection must be consistent with OTA's education and training.

(d) More frequent supervision may be necessary as determined by the OT or the OTA, dependent on the level of expertise displayed by the OTA, the setting and the population characteristics.

(e) A supervisor who is temporarily unable to provide supervision shall arrange for substitute supervision by a licensed OT. The substitute shall provide supervision that is as rigorous and thorough as that provided by the permanent supervisor.

#### **Section 4. Supervision Under a Limited License.**

(a) Individuals licensed under a limited license shall receive daily direction and instruction from a licensee in good standing with the Board, either in person or virtually through a live audio and video connection. The licensed supervisor shall also provide evaluations of the limited licensee's therapy skills.

(b) The limited licensee may provide services outside of the physical presence of the licensed supervisor if the licensed supervisor determines that the limited licensee has demonstrated the competence to do so.

(c) Written documentation of each supervisory session shall be recorded on the supervision form provided by the Board and signed by the licensed supervisor and limited licensee. The limited licensee shall submit the original supervision forms to the Board as part of the application for full licensure.

(d) The supervisor shall notify the Board in writing of termination of supervision.

(e) All treatment documentation must be co-signed by the limited licensee and the licensed supervisor.

#### **Section 5. Telehealth.**

(a) In order to provide occupational therapy services via telehealth to a client in Wyoming, an OT or OTA must hold a current Wyoming license.

(b) When providing occupational therapy services via telehealth, an OT shall determine whether an in-person evaluation and treatment is necessary. If it is determined that an in-person evaluation and treatment is necessary, the OT shall cease telehealth provision of services until an on-site visit is completed and determined that telehealth is appropriate.

(c) The OT is responsible for determining whether any aspect of the provision of services may be conducted via telehealth or must be conducted in person. An OT shall consider at a minimum:

- (i) the complexity of the client's condition;
- (ii) his or her own knowledge skills and abilities;
- (iii) the client's context and environment;
- (iv) the nature and complexity of the intervention;
- (v) the pragmatic requirements of the practice setting; and



(vi) the capacity and quality of the technological interface.

(d) The OT shall obtain informed consent for the delivery of service via telehealth from the client prior to initiation of occupational therapy services via telehealth and maintain documentation in the client's health record.

(e) An OT or OTA providing occupational therapy services via telehealth shall exercise the same standard of care when providing occupational therapy services via telehealth as with any other mode of delivery of occupational therapy services.

(f) An OTA or limited licensee providing occupational therapy services via telehealth may be supervised in person or virtually through a live audio and video connection.

#### **Section 6. Physical Agent Modalities.**

(a) An OT or an OTA may use physical agent modalities in conjunction with, or in immediate preparation for, occupational therapy services under the following conditions:

(i) The OT or OTA must complete six (6) hours of post professional education in the appropriate use of physical agent modalities.

(ii) The OT or OTA shall complete five (5) supervised direct administrations of each modality demonstrating the appropriate use of each physical agent modality. The supervisor must be a person licensed to practice as an OT or physical therapist.

(iii) The OT or OTA shall retain documentation that they completed the required five (5) supervised direct administrations of each modality to be used.

(b) Nothing in this section modifies or amends any provision of Section 7 of this chapter.

#### **Section 7. Dry Needling.**

(a) Licensed OT may use dry needling techniques on patients. OT who practice dry needling must retain written records of receiving dry needling training and present these records to the Board upon request. Training shall include;

(i) A minimum of twenty-four (24) hours of live, face-to-face post professional instruction in dry needling; and

(ii) Anatomy, training in indications for dry needling,

contraindications for dry needling, potential risks, proper hygiene, proper use and disposal of needles, and appropriate selection of clients.

- (b) OTA or other support personnel may not perform dry needling techniques.

**Section 8. Code of Ethics.**

- (a) It is the professional responsibility of licensees to provide services for clients without regard to race, creed, national origin, gender, disability or religious affiliation;

- (b) The licensee shall be acquainted with applicable local, state, federal laws and institutional rules and shall function accordingly.

- (c) The licensee shall inform employers, employees, and colleagues about those laws and policies that apply to the profession of occupational therapy.

- (d) The licensee shall function with discretion and integrity in relations with colleagues and other professionals and shall be concerned with the quality of their services.

- (e) The licensee shall report illegal, incompetent, or unethical practice to the appropriate authority.

- (f) The licensee shall not disclose privileged information when participating in reviews of peers, programs or systems.

- (g) The licensee who employs or supervises colleagues shall provide appropriate supervision as provided for in Guidelines for Supervision, Roles, and Responsibilities During the Delivery of Occupational Therapy Services as incorporated in Chapter 1 of these rules, state laws, and rules and regulations.

- (h) The licensee shall recognize the contributions of colleagues when disseminating professional information.

- (i) Treatment objectives and the therapeutic process shall be formulated to ensure professional accountability.

- (j) Occupational therapy evaluation services shall be goal-directed in accordance with the overall educational, habilitation, or rehabilitation plan and shall include a system to ensure professional accountability.

- (k) The licensee shall not delegate client care, evaluations, or treatment to fieldwork students when the licensee is not in the facility. The OTA is not allowed to supervise a Level II OT student.

- (l) The licensee shall accurately represent the licensee's competence, education, training and experience.
- (m) The licensee shall only provide services and use techniques for which the licensee is qualified by, and have supporting documentation of, education, training or experience.
- (n) The licensee shall take all reasonable precautions to avoid harm to the client or detriment to the client's property.
- (o) The licensee shall inform subjects involved in education or research activities of the potential outcome of those activities.
- (p) When applicable, the licensee shall establish fees, based on cost analysis, that are commensurate with services rendered.
- (q) The licensee shall accurately record information and report information as required by facility standards and state and federal laws.
- (r) All data recorded in permanent files or records shall be supported by the licensee's observations or by objective measures of data collection.;
- (s) Client's records shall only be divulged as authorized by law or with the client's consent for release of information.
- (t) The licensee shall not delegate to other personnel those client-related services where the clinical skills and expertise of a licensee are required.
- (u) The licensee shall refer clients to other service providers or consult with other service providers when additional knowledge and expertise is required.

**Section 9. Unprofessional Conduct.**

- (a) The failure of a licensee to abide by the ethical standards adopted by the Board shall constitute unprofessional conduct and grounds for disciplinary action.
- (b) The failure of a licensee to meet the requirements of Section 6(a) before using physical agent modalities in their practice shall constitute unprofessional conduct and grounds for disciplinary action.
- (c) The failure of a licensee to meet the requirements of Section 7(a) before using dry needling in their practice shall constitute unprofessional conduct and grounds for disciplinary action.

## Chapter 5

### Fees

**Section 1. Authority.** These rules are promulgated by the Wyoming State Board of Occupational Therapy under the Wyoming Occupational Therapy Practice Act, Wyoming Statute § 33-40-112.

#### **Section 2. General Information.**

(a) Fees shall be payable in the exact amount, by money order, or cashier's check for all services and shall be paid in advance of the services rendered. Fees for renewal fees of license may, in addition to money order or cashier's check, be paid by personal check. Online services shall be payable by credit or debit card.

(b) All fees collected by the Board are non-refundable.

**Section 3. Fees.** The Board shall charge the fees for the following services.

(a) Application Fee:

(i) OT License: \$225.00

(ii) OTA License: \$175.00

(b) Temporary License Application Fee:

(i) OT: \$50.00

(ii) OTA: \$25.00

(c) Limited License Application Fee:

(i) OT: \$50.00

(ii) OTA: \$25.00

(d) License Renewal Fee:

(i) OT: \$110.00

(ii) OTA: \$60.00

(e) Late Renewal Fee: \$100.00

- (f) License Verification Fee: \$25.00
- (g) Duplicate Certificate Fee: \$25.00
- (h) Reinstatement Fee: \$150.00
- (i) Re-Entry Fee: \$125.00



## Chapter 6 - Repealed

## **Chapter 7 - Repealed**

## Chapter 8

### Renewal

**Section 1. Authority.** These rules are promulgated by the Wyoming State Board of Occupational Therapy under the Wyoming Occupational Therapy Practice Act, W.S. Wyoming Statute § 33-40-115(b).

#### **Section 2. Annual Renewal of License.**

(a) The Board shall renew the license of a licensee who submits a complete application as required by the board, meets all requirements for renewal, and pays the required fees.

(b) Licenses shall expire on July 31 of each year unless renewed under these rules. The Board shall send a notice of renewal via mail or email each year. Failure to receive notice shall not excuse a licensee from the requirement for renewal under the Act and these rules.

(c) License renewal applications shall be postmarked or hand delivered to the Board office no later than June 15.

(i) Renewal applications postmarked or hand delivered to the office after June 15 are subject to a late fee.

(ii) During even numbered years, all renewals subject to the late fee must submit proof of CE hours for audit.

(d) Licensees may submit a renewal application up to one (1) year after the expiration of the license. The licensee may not practice after their expiration date until the renewal is issued by the Board. After the one (1) year period, an applicant must seek Re-Entry.

(e) The Board will use an audit system to review CE hours obtained by the licensee.

(i) Every even year ten percent (10%) of current licensees will be selected at random and required to submit verification of the CE hours as outlined in Chapter 8, Section 3.

(ii) Licensees selected for audit will be notified by May 15 during even years. Selected licensees shall submit documentation verifying their completion of CE hours.

(f) If a license is suspended under these rules, the licensee shall submit a renewal application and fee, otherwise, the suspended license will expire.

(i) Renewal of a suspended license shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order of judgment by which the license was

suspended.

(g) A license revoked on disciplinary grounds is subject to expiration as provided in the Act but it may not be renewed. The licensee, as a condition of reinstatement, shall meet license requirements for new licensees and shall pay a reinstatement fee set by the Board.

### **Section 3. Continuing Education.**

(a) Each licensee must complete twenty-four (24) hours of CE every two years.

(i) A licensee who becomes licensed during an even-numbered year prior to July 31 is not required to provide evidence of CE as part of their renewal that year.

(ii) A licensee who becomes licensed during an odd-numbered year need only complete and report twelve (12) hours of CE at the first even-numbered year after they become licensed.

(iii) CE hours may only be submitted if they are earned during the three (3) years immediately preceding the annual license renewal.

(b) All licensees shall report their number of CE hours every even numbered year in conjunction with the licensee's application for renewal.

(c) Licensees are required to keep documentation of their CE hours, to be submitted to the board upon audit. The documentation of verification of attendance shall include;

(i) Name of licensee;

(ii) Title of course;

(iii) Date of attendance;

(iv) Number of hours earned;

(v) Signature of the person verifying the attendance.

(vi) If the class is not sponsored by the NBCOT, AOTA, or WYOTA, the licensee must also present a written course description of the course on the CE log sheet.

(A) Courses shall be taken at a NBCOT, AOTA, or WYOTA live or virtual conference or you must register for the course through their site for the CE to be sponsored by the association.

(B) Courses taken through organizations that are only NBCOT, AOTA, or WYOTA approved CE providers do not meet the requirements for being sponsored.

(d) CE credit is available for live courses, on-line courses, college courses beyond degree requirements, written courses, conferences, or student supervision.

(i) For college level classes used for continuing education purposes, one semester credit shall equal fifteen (15) contact hours and one quarter semester credit shall equal ten (10) contact hours.

(ii) CE shall only be granted for supervision of a Level II student or doctoral experiential student as part of an accredited college or university training program for Occupational Therapy or Occupational Therapy Assistants.

(A) A maximum of twelve (12) CE can be earned through the provision of supervision for each bi-annual period. One (1) CE is granted for every week of supervision.

(B) Documentation for this type of CE shall include:

(1) A record of the students supervised and dates and times of supervision; and

(2) A certification of the supervision from the OT program.

(e) The primary objective of any CE credit shall be to increase the participant's competence within their practice as an occupational therapist or occupational therapy assistant as defined by W.S. 33-40-102(a).

(f) Extra hours submitted will not be carried over, and courses may not be split unless a separate attendance verification is obtained for separate sections of the education provided.

(g) Employment orientation, employment training not specific to occupational therapy, facility-specific documentation training, and CPR and First Aid classes do not count toward CE requirements.

(h) A licensee may obtain CE credit for contact hours spent presenting a class if:

(i) The licensee is the primary presenter or a co-presenter;

(ii) The licensee only submits the course for CE once;

(iii) Time spent preparing the class is not included for credit; and

(iv) The licensee submits a copy of the presentation and a program agenda that includes the presentation title, presenter's name, date, and time of the presentation.

(i) No more than four (4) of the licensee's twenty-four (24) CE hours submitted may



be made up of classes that are less than one hour in length.

## Chapter 9

### Practice and Procedures for Application

**Section 1. Authority.** The Board promulgates these rules according to authority granted by Wyoming Statute 33-40-115 (b) and 16-3-103(j)(i).

**Section 2. Application Review.**

(a) Assigning Application Review Committee (ARC).

(i) Board staff shall review all applications for a license.

(ii) When Board staff determines that there may be grounds to deny a license or approve a license subject to discipline or restrictions, Board staff shall refer the application to an ARC.

(b) The ARC shall investigate the application, which may include requesting additional information, meeting with the applicant, or any other action the ARC deems appropriate.

(c) The ARC may recommend that the Board:

(i) Issue, renew, relicense, or reinstate a license;

(ii) Issue, renew, relicense, or reinstate a license subject to reprimand, conditions, restrictions, or other disciplinary action;

(iii) Approve a settlement agreement; or

(iv) Deny the application.

(d) Notice of Intent.

(i) If the ARC intends to recommend that the Board deny an application or issue a license subject to other disciplinary action, the ARC shall notify the applicant of its recommendation.

(ii) The Notice of Intent shall contain:

(A) A brief description of the facts or conduct that the ARC alleges warrant denying the license or issuing the license subject to disciplinary action;

(B) Citations to the applicable statutory provisions or Board rules that the ARC alleges the applicant violated; and

(C) Notice that an applicant may request a hearing before the Board in writing within thirty (30) days from the date of mailing.

(e) The applicant shall have thirty (30) days from the date the ARC mailed the Notice of Intent to respond. The applicant may:

- (i) Request that the Board hold a hearing on the ARC's recommendation;
- (ii) Request that the Board table consideration of the application; or
- (iii) Withdraw the application.

(f) If an applicant fails to timely respond to the Notice of Intent, the Board may accept the ARC's recommendation.

(g) There shall be a presumption of lawful service of any communication required by these rules if sent by U.S. mail to the address stated on the application or, if applicable, an updated address later provided by the applicant.

### **Section 3. Hearing Procedure.**

(a) Upon receiving a written request for a hearing from an applicant, the Board or a hearing officer appointed by the Board shall begin a contested case proceeding. Board staff or the hearing officer shall serve a Notice of Hearing on the applicant at least 30 days before the hearing. The Notice of Hearing shall contain:

- (i) A brief statement of the matters asserted, including:
  - (A) The ARC's recommendation;
  - (B) The facts upon which the recommendation is based; and
  - (C) The statutory provisions or Board rules the applicant is alleged to have violated or failed to meet to qualify for licensure.
- (ii) The time, place, and nature of the hearing;
- (iii) The legal authority and jurisdiction of the Board; and
- (iv) Notice of the burden and standard of proof.

(b) Any hearing officer appointed by the Board shall preside over the contested case proceeding and shall conduct the proceeding according to the Wyoming Administrative Procedure Act and Chapter 2 of the Office of Administrative Hearings rules as incorporated by reference in Chapter 1.

(c) The applicant shall bear the burden to prove by a preponderance of the evidence that he or she meets the qualifications for licensure. The burden of production shall shift to the ARC to prove by clear and convincing evidence that the applicant should not be granted an unrestricted license or license subject to discipline. The burden of production then shifts to the applicant to demonstrate that the ARC's grounds for denial or issuance of a license subject to conditions or restrictions are insufficient and that the applicant is entitled to licensure.

(d) The Board may resolve an application matter by:

(i) Adopting the ARC's recommendation without a hearing if the applicant did not request a hearing;

(ii) Resolving a dispositive motion in either party's favor;

(iii) Conducting a contested case hearing. Following the hearing and the Board's deliberation, the Board may:

(A) Issue, renew, relicense, or reinstate a license;

(B) Issue, renew, relicense, or reinstate a license with conditions, restrictions, or other disciplinary action;

(C) Deny a license, renewal, re-entry, or reinstatement;

(e) The Board shall issue a written decision or order. The decision or order shall be sent by U.S. Mail to the applicant and the applicant's attorney or representative, if any.

(i) Board action is effective on the date that the Board approves the written decision or order and it is entered into the administrative record.

(ii) Written board decisions or orders are final agency action subject to judicial review according to the Wyoming Administrative Procedure Act and the Wyoming Rules of Appellate Procedure.

## Chapter 10

### Practice and Procedures for Discipline Matters

**Section 1. Authority.** The Board promulgates these rules according to authority granted by Wyoming Statute 33-40-113 and 16-3-103(j)(i).

**Section 2. Disciplinary Action.** The Board may take disciplinary action for the following:

- (a) Violating the Board's practice act or rules;
- (b) Violating a Board order;
- (c) Unprofessional conduct as defined in W.S. 33-40-102 (a) (vi);
- (d) Violating the Code of Ethics as found in Chapter 3, Section 7 of these Rules; and
- (e) Unprofessional conduct as found in Chapter 3, section 8 of these Rules.

**Section 3. Complaint Review and Disciplinary Investigation.**

(a) Complaints that a licensee has violated the Board's practice act or the Board's rules shall be submitted to the Board's office. Board staff may initiate complaints.

(b) After receiving a complaint or initiating a complaint, Board staff shall assign the complaint to an Investigation Committee (IC) for investigation.

(c) After reviewing and investigating the complaint, the IC may recommend that the Board:

- (i) Dismiss the complaint;
- (ii) Summarily suspend a license;
- (iii) Approve a settlement agreement;
- (iv) Discipline the licensee, including:
  - (A) Suspend a license;
  - (B) Revoke a license; or

(C) Impose probationary conditions.

**Section 4. Summary Suspension.**

(a) An IC may recommend that the Board summarily suspend a license at any time when the IC or Board staff believes that the licensee's continued practice imperatively requires emergency action to protect the public health, safety, or welfare.

(b) The IC shall notify the licensee of its intent to recommend summary suspension. The Notice of Intent shall contain:

(i) A copy of the complaint, if any;

(ii) A description of the grounds for the summary suspension recommendation;  
and

(iii) Notice that an expedited summary suspension proceeding shall be set at the earliest opportunity a quorum of Board members may be assembled.

(c) When the date and time of the summary suspension hearing is set, the Board staff shall notify the licensee of the date and time of the proceeding by mailing written notice and emailing electronic notice to the licensee's mailing and email addresses.

(d) The scope of the expedited summary suspension proceeding shall be limited to a presentation of the information the IC believes warrants summary suspension and any information the licensee may present on his or her behalf.

(e) Hearing Format.

(i) The IC shall describe the allegations that it believes warrant emergency action against the licensee.

(ii) The IC shall present information that demonstrates probable cause that the allegations are true.

(iii) The IC shall explain why the licensee's continued practice imperatively requires emergency action to protect the public health, safety, or welfare.

(iv) The licensee, if present, may present any information demonstrating that the allegations are not true or that, even if the allegations are true, the licensee's continued practice does not imperatively require emergency action to protect the public health, safety, or welfare.

(f) The Board may order summary suspension if it concludes that probable cause exists that the allegations are true and that the licensee's continued practice imperatively requires emergency action to protect the public health, safety, or welfare. The Board shall incorporate a finding to that effect in its order granting summary suspension.

(g) No summary suspension shall be effective until the Board has adopted a written order incorporating the reasons justifying its decision.

(h) The Board shall enter a written order granting or denying summary suspension at the summary suspension proceeding or within seven days after the proceeding. The Board shall send the order to the licensee by U.S. mail and by email.

(i) Post-Deprivation Hearing.

(i) A licensee may request a post-deprivation hearing within ten days from the date the summary suspension order is entered.

(ii) If a licensee requests a post-deprivation hearing, the Board shall conduct it within 30 days of the licensee's request and notify the licensee of the date, time, and location of the hearing.

(iii) Post-deprivation hearings shall be conducted in the same manner as summary suspension proceedings as articulated in Section 4(e) of this chapter. The sole issue before the Board at a post-deprivation hearing shall be whether the IC's allegations imperatively require emergency action to protect the public health, safety, and welfare. The Board shall affirm its decision to summarily suspend a license, and issue a written order to that effect, if it concludes that the IC has proven the allegations by a preponderance of the evidence and that the allegations imperatively require emergency action to protect the public health, safety, or welfare.

(j) Unless earlier terminated by the Board or a petition for discipline is filed under Section 6 of this chapter, summary suspensions shall lapse 180 days after the written order granting summary suspension is entered under subsection (h) of this section.

#### **Section 5. Surrender in Lieu of Discipline and Licenses Issued in Error.**

(a) A licensee may petition the Board, in writing, to voluntarily surrender a license in lieu of discipline.

(i) The IC shall recommend that the Board approve or deny the petition.

(ii) The Board may approve or deny the petition.

(b) If Board staff has reason to believe that a license has been issued despite an applicant not meeting licensure requirements and:

(i) If Board Staff has issued the license and the Board has not ratified its issuance, the license shall be rescinded and the matter shall be referred to an ARC.

(ii) If Board Staff has issued the license and the Board has ratified its issuance, the matter shall be referred to an IC.

(A) The IC may petition the Board to revoke the license or impose practice restrictions according to the procedures outlined in Section 6 of this chapter and may seek summary suspension.

(B) A revocation solely for the reasons specified this subsection shall not be considered license discipline. Nothing in this subsection prohibits discipline or application denial for a licensee's conduct.

(C) A licensee may surrender the license at issue under this provision in lieu of a hearing before the Board without Board approval.

#### **Section 6. Hearing Procedure.**

(a) There shall be a presumption of lawful service of a Notice of Intent, Petition, Notice of Hearing, or any other communication required by these rules if sent by U.S. mail to the address the licensee most recently supplied to the Board.

(b) The IC shall notify the licensee of its intent to file a petition for disciplinary action. The Notice of Intent shall:

(i) Include a brief description of the facts or conduct that warrant the intended action;

(ii) Include a description of the nature of the discipline the IC intends to seek;  
and

(iii) Provide the Licensee no less than 30 days to show that the licensee has complied with all lawful license requirements.

(c) The IC shall initiate proceedings for disciplinary action by filing a Petition with the Board office and serving a copy upon the licensee to the last known address of the licensee by regular U.S. mail.



(d) A licensee may respond to the Petition by filing an Answer admitting or denying the allegations in the Petition or by filing a dispositive motion.

(e) A licensee shall respond to a Petition within (20) days from the date the Petition is filed with the Board office or, if the licensee files a dispositive motion, from the date the dispositive motion is decided by entry of a written order. Failure to respond to the Petition within this time may result in a default judgment.

(f) When a petition for disciplinary action is filed, the Board or a hearing officer appointed by the Board shall begin a contested case proceeding. Board staff or the hearing officer shall serve a Notice of Hearing, with the Petition attached, on the applicant at least 30 days before the hearing. The notice of hearing shall contain:

- (i) The legal authority for the Petition and statement of the Board's jurisdiction;
- (ii) The facts justifying the disciplinary action sought;
- (iii) The statutory provisions or Board rules the licensee is alleged to have violated;
- (iv) The time, place, and nature of the hearing; and
- (v) Notice of the burden and standard of proof.

(g) If a licensee fails to timely answer the allegations in a Petition or appear at a noticed hearing, and upon the IC's motion, the Board may enter default against the licensee. In entering default, the Board may:

- (i) Order that the factual allegations in the Petition are to be taken as true for the purposes of the hearing;
- (ii) Order that the licensee may not present evidence on some or all issues in the matter; or
- (iii) Any other relief the Board determines is just.

(h) The Board may set aside an entry of default for good cause.

(i) Any hearing officer appointed by the Board shall preside over the contested case proceeding and shall conduct the proceeding according to the Wyoming Administrative Procedure Act and Chapter 2 of the Office of Administrative Hearings rules as incorporated by reference in Chapter 1.

(j) The IC shall bear the burden to prove by clear and convincing evidence that the licensee violated the Board's practice act or the Board's rules.

(k) The Board may resolve a discipline matter by:

(i) Resolving a dispositive motion in either party's favor;

(ii) Accepting a settlement agreed on by both parties;

(iii) Granting a licensee's petition for voluntary surrender in lieu of discipline under Section 5(a) of this Chapter;

(iv) Conducting a contested case hearing. Following the hearing and the Board's deliberation, the Board may, as applicable:

(A) Find no violation of the Board's practice act or rules and therefore impose no discipline on the licensee;

(B) Find that the licensee has violated the Board's practice act or rules and impose the following discipline:

(1) Impose probationary conditions;

(2) Suspend a license;

(3) Revoke a license[List possible types of discipline depending on practice act].

(l) The Board shall issue a written decision or order. The decision or order shall be sent by U.S. Mail to the licensee and the licensee's attorney or representative, if any.

(m) Board action is effective on the date that the Board approves the written decision or order and it is entered into the administrative record.

(n) Written board decisions or orders are final agency action subject to judicial review according to the Wyoming Administrative Procedure Act and the Wyoming Rules of Appellate Procedure.

### **Section 7. Petition for Modifying Conditions or Restrictions.**

(a) A licensee may petition the Board to modify any conditions or restrictions on his or her license. The licensee shall submit a written petition for modification to the Board office. The petition for modification shall include evidence demonstrating:

- (i) Compliance with all previously entered Board orders;
  - (ii) That the modification is consistent with any treatment plan or medical orders, if applicable; and
  - (iii) That the modification will ensure the public is adequately protected.
- (b) The IC assigned the matter shall review the petition and shall recommend that the Board either grant or deny the petition within 30 days of the Board office receiving the petition.
- (c) Board Consideration.
- (i) The Board shall consider the petition and the IC's recommendation at its earliest convenience.
  - (ii) The Board may approve or deny the petition for modification.

## Chapter 1

### General Provisions

#### Section 1. Authority.

(a) ~~\_\_\_\_\_~~ These ~~rules~~ Rules and Regulations are promulgated by the Wyoming State Board of Occupational Therapy pursuant to their authority under the Wyoming Occupational Therapy Practice Act, ~~W.S. Wyoming Statute § 33-40-101 et seq.~~

#### ~~Section 2. — Statement of Purpose.~~

~~\_\_\_\_\_ (a) \_\_\_\_\_~~ These ~~Rules and Regulations~~ were adopted to implement the authority of the Wyoming Board of Occupational Therapy to regulate the qualifications and standards of practice of Occupational Therapists (OTs), and Occupational Therapy Assistants (OTAs) practicing in Wyoming and to provide for enforcement and proper administration of the provisions of the Occupational Therapy Practice Act.

**Section 23. Definitions.** The definitions set out in the Act are hereby incorporated by reference into these Rules. In addition, as As used in these Rules-rules, the following definitions shall apply:

(a) “AOTA” is the American Occupational Therapy Association.

~~(b) — “Board” means the Wyoming Board of Occupational Therapy.~~

~~(e)(b) “CE” means continuing education.~~

(c) “Client” is an individual who receives occupational therapy services.

(d) “Close Supervision” means weekly, direct contact at the site of work and applies only to OTs with initial skill development proficiencies or OTAs, as appropriate, for the delivery of occupational therapy services.

(e) "Contact Hour" means one (1) hour engaging in continuing education.

(f) “Dry Needling” means an intervention in which an occupational therapist uses solid or hollow-core needles to treat the dysfunction of skeletal muscle and connective tissue, to minimize pain, and to improve or regulate structural or functional damage to a patient’s body.

(g) “Good Standing” means the individual’s license, certification, or registration is not currently suspended or revoked by any state or national regulatory entity.

(h) "Licensee" means any occupational therapy practitioner licensed by the Board.

(i) “NBCOT” means the National Board for Certification in Occupational Therapy.

(j) “OT” means Occupational Therapist.

(k) “OTA” means Occupational Therapy Assistant.

(l) “Physical Agent Modalities” means techniques that produce a response in soft tissue using light, water, temperature, sound, or electricity.

(~~jm~~) “Routine Supervision” means direct contact at least every two weeks at the site of work, with interim supervision occurring by other methods, such as telephonic, electronic or written communication ~~and applies only to OTAs.~~

(~~kn~~) “WYOTA” means the Wyoming Occupational Therapy Association.

#### **Section ~~3~~4. Board Meetings.**

(a) Notice of Board meetings shall be posted on the Board website ~~and given to any person who requests such notice as specified by the Wyoming Administrative Procedures act. The notice shall specify the time and place of the meeting and the business to be transacted.~~

(b) The Board shall hold ~~its annual~~ a regular meeting in July of each year. All other meetings will be held in accordance with ~~the Wyoming Administrators Procedure Act~~ Wyoming Statute § 16-4-401 through 408.

#### **Section 4. Change of Name and/or Address.**

(a) A licensee shall notify the Board of any changes in name or address in writing, within thirty (30) days of the change.

(i) The Board will update the name on a license upon receipt of a copy of a legal document indicating name change (i.e. marriage certificate, divorce papers, etc.).

(b) Any correspondence from the Board to the licensee required or permitted under the Act shall be mailed to the last known name and address provided to the Board by the licensee and shall be presumed proper service on the licensee.

#### **Section 5. Duplicate License.**

(a) A licensee shall promptly notify the Board in writing if a license is lost, stolen or destroyed.

(b) The Board shall issue a duplicate certificate to a licensee who submits a written request with the reason for requesting a duplicate certificate and fee.

(c) The Board shall issue a statement verifying license status to a licensee's employer, jurisdiction or institution upon receipt of the licensee's written request and the fee. The Board shall also make this information available free of charge on the Board's website.

#### **Section 6. Incorporation by Reference.**

(a) The Board incorporates the administrative practice and procedure rules found in Chapter 2 of the Uniform Rules for Contested Case Practice and Procedure adopted by the Office of Administrative Hearings and effective July 20, 2017 found at: <https://rules.wyo.gov>, Reference Number 270.0001.2.07202017.

(i) The Board determined that incorporation of the full text of this rule would be cumbersome and inefficient given the length and nature of the rules.

(ii) This incorporation by reference in subsection (a) does not include any later amendments or editions of the incorporated matter beyond the applicable date identified.

(iii) A copy of the incorporated rule is available for public inspection or copying at the Board's office.

(b) The Board incorporates the AOTA Guidelines for Supervision, Roles, and Responsibilities During the Delivery of Occupational Therapy Services as published in The American Journal of Occupational Therapy in the November/December 2014 issue and found at [occupationaltherapy.wyo.gov](http://occupationaltherapy.wyo.gov).

(i) The Board determined that incorporation of the full text of this rule would be cumbersome and inefficient given the length and nature of the rules.

(ii) This incorporation by reference in subsection (a) does not include any later amendments or editions of the incorporated matter beyond the applicable date identified.

(iii) A copy of the incorporated rule is available for public inspection or copying at the Board's office.

(c) The Board incorporates the rules found in Chapter 2 of the Uniform Procedures, Fees, Costs, and Charges for Inspecting, Copying, and Producing Public Records adopted by the Department of Administration and Information and effective September 6, 2016 found at: <https://rules.wyo.gov> under Reference Number: 006.0011.2.09062106.

(i) The Board determined that incorporation of the full text of this rule would be cumbersome and inefficient given the length and nature of the rules;

(ii) This incorporation by reference in subsection (a) does not include any later amendments or editions of the incorporated matter beyond the applicable date identified.

(iii) A copy of the incorporated rule is available for public inspection or copying at the Board's office.

**Section 7. Record Inspection.** Record inspection shall take place under the following conditions:

(a) An appointment shall be made to review the file between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday at the Board office.

(b) Record inspection shall take place in the presence of a Board member or a representative of its administrative staff.

**Section 8. Correction and Amendment.** Any applicant or licensee may clarify erroneous, inaccurate, or misleading information contained within their file by submitting a written statement to the Board which shall be placed in the file.

**Section 9. Requests for Roster of Licensees.** The roster shall be made available to state agencies, licensees, and any other organization upon written public records request, free of charge.

## Chapter 2

### Licensure Requirements

**Section 1. Authority.** These rules are promulgated by the Wyoming State Board of Occupational Therapy under the Wyoming Occupational Therapy Practice Act, W.S. Wyoming Statute § 33-40-115(b).

#### **Section 24. Initial License.**

- (a) The applicant shall submit:
  - (i) Completed application and fee;
  - (ii) ~~Official verification~~ Verification of passing scores of the national certification examination, administered by NBCOT or current national examination recognized by the board;
  - (iii) Verification of all licenses held, active or inactive, in any healthcare professions; and
  - (iv) Verification of lawful presence in the United States.

#### **Section 2. Continuing Education.**

~~— (a) — Each licensee must complete thirty two (32) hours of continuing education every two years.~~

~~— (b) — All licensees shall report their number of continuing education hours every even numbered year in conjunction with the licensee's application for renewal.~~

~~(i) — Continuing education hours may only be submitted if they are earned during the three (3) years immediately preceding the annual license renewal.~~

~~— (ii) — A licensee who becomes licensed during an odd numbered year need only complete and report sixteen (16) hours of continuing education at the first even numbered year after they become licensed.~~

~~— (iii) — A licensee who becomes licensed during an even numbered year prior to July 31 need only complete and report thirty two (32) hours of continuing education at the next even numbered year.~~

~~— (e) — Licensees are required to keep documentation of their continuing education hours, to be submitted to the board upon audit. The documentation of~~



verification of attendance shall include;

~~\_\_\_\_\_ (i) Name of licensee;~~

~~\_\_\_\_\_ (ii) Title of course;~~

~~\_\_\_\_\_ (iii) Date of attendance;~~

~~\_\_\_\_\_ (iv) Number of hours earned;~~

~~\_\_\_\_\_ (v) Signature of the person verifying the attendance.~~

~~\_\_\_\_\_ (vi) If the class is not sponsored by the NBCOT, AOTA, or WYOTA the licensee must also present a copy of the conference flyer, agenda, or written course description of the course on the continuing education log sheet.~~

~~\_\_\_\_\_ (d) Continuing education credit is available for live courses, on-line courses, college courses beyond degree requirements, written courses or conferences.~~

~~\_\_\_\_\_ (e) The primary objective of any continuing education credit shall be to increase the participant's competence within their practice as an occupational therapist or occupational therapy assistant.~~

~~\_\_\_\_\_ (f) Extra hours submitted will not be carried over, and courses may not be split unless a separate attendance verification is obtained for separate sections of the education provided.~~

~~\_\_\_\_\_ (g) Employment orientation, employment training not specific to occupational therapy, facility-specific documentation training, and CPR and First Aid classes do not count toward continuing education requirements.~~

~~\_\_\_\_\_ (h) A licensee may obtain continuing education credit for hours spent presenting a class if:~~

~~\_\_\_\_\_ (i) The licensee is the primary presenter or a co-presenter;~~

~~\_\_\_\_\_ (ii) The licensee only submits the course for continuing education once.~~

~~\_\_\_\_\_ (iii) Time spent preparing the class is not included for credit; and~~

~~\_\_\_\_\_ (iv) The licensee shall submit a copy of the presentation, and a program agenda that includes the presentation title, presenter's name, date and time of the presentation.~~

~~\_\_\_\_\_ (i) No more than four (4) of the licensee's thirty two (32) continuing education hours submitted may be made up of classes that are less than one hour in length.~~

~~\_\_\_\_\_ (j) Proof of continuing education hours must be submitted to the board upon audit. License holders selected for audit will be notified in June.~~

~~\_\_\_\_\_ (k) All renewals received after June 15 must submit proof of continuing education hours for audit.~~

**Section 3. License Expiration.**

(a) Licenses issued that are not Temporary Licenses or Limited Licenses shall expire as follows:

(i) Licenses issued August 1 through April 30 shall expire at the end of the current renewal period.

(ii) Licenses issued May 1 through July 31 shall expire at the end of the next renewal period.

**Section 4. Temporary License.**

(a) An applicant who is currently licensed to practice occupational therapy in another jurisdiction may obtain a temporary license while the application is being processed by the Board. ~~The temporary license must be approved by the board prior to practice in Wyoming, and shall be in effect until a regular license is issued by the Board. A Temporary License shall not exceed ninety (90) days from the date of issuance.~~

(i) An applicant shall not begin practice prior to the issuance of the temporary license.

(ii) Temporary licenses expire ninety (90) days from the date of issuance or when a regular license is issued.

(b) To request a temporary license, the applicant shall submit;

(i) A complete an application;

(ii) The required Required fees; and

(iii) A copy of the current An official verification of a current license held in another jurisdiction to the Board.

**Section 5. Limited License.**

(a) An individual who completes the academic and fieldwork requirements for licensure as an OT or OTA ~~occupational therapist or occupational therapy assistant~~ who has not yet taken or received the results of the entry-level certification examination may apply for and receive a limited license. ~~The Board may require a limited license for occupational therapists and occupational therapy assistants re-entering the profession as outlined in Chapter 2, Section 7. Re-Entry.~~

(b) A limited license shall be valid for six (6) months. -

~~\_\_\_\_\_ (i) Limited licenses shall expire when the person is issued a license; or when the person is notified that they ~~he or she~~ did not pass the examination and therefore no longer able to practice.~~

(c) The limited licenses are not renewable; however, the license may be extended upon showing of good cause.

(i) The licensee shall provide a written request to the Board.

(ii) The Board will review the request on a case by case basis, ~~;~~

~~\_\_\_\_\_ (iii) and the~~ The license may be renewed one month at a time, not to exceed three (3) months.

(d) To request a limited license, the applicant shall submit;

(i) A complete application;

(ii) The required fees; and

(iii) An official verification from NBCOT or successor organization examination recognized by the Board that the applicant has been approved to sit for the examination and has scheduled a date to sit for the examination.

#### **Section 6. License by Endorsement.**

(a) An applicant who is currently licensed to practice occupational therapy in another jurisdiction ~~that which~~ requires that applicants pass the national certification examination administered by NBCOT or successor organization ~~current national~~ examination recognized by the Board may apply for licensure by endorsement.

(b) The applicant shall submit:

(i) ~~Submit the~~ A complete application and license fee to the Board;

(ii) ~~State whether they have been disciplined for unprofessional~~

~~conduct or a similar offense; The required fees;~~

(iii) ~~Submit verification~~ Verification of lawful presence in the United States; and

(iv) ~~Procure verification~~ Verification of licensure from ~~the each jurisdiction jurisdictions from in~~ which the applicant ~~currently holds or held~~ a license. ~~This form is to~~ The verification shall be mailed sent directly to the Board from the ~~offices of each jurisdiction. The Board Office shall verify the license from a jurisdiction that the jurisdiction does not provide written verification requests to the Board.~~

### **Section 7. — Annual Renewal of License.**

~~———— (a) ——— Licenses shall expire on July 31 of each year unless renewed under these rules. The Board shall mail a renewal notice to active licensees at their address of record on or before May 1 of each year. The Board shall issue a renewal license to a licensee who meets all requirements for renewal.~~

~~———— (b) ——— License renewal applications shall be postmarked no later than June 15 in order to ensure timely processing.~~

~~———— (i) ——— Renewal applications postmarked after June 15 are subject to a late fee.~~

~~———— (ii) ——— Licensees may submit a renewal application up to one (1) year after the expiration of the license. Once the license expires, the licensee may not practice until the renewal is issued by the Board.~~

~~———— (c) ——— The Board will use an audit system to review continuing education hours obtained by the licensee.~~

~~———— (i) ——— Every even year 10% of current licensees will be selected at random and required to submit verification of the thirty-two (32) hours of continuing education hours as outlined in Chapter 2, Section 3.~~

~~———— (ii) ——— Licensees selected for audit will be notified by June 15 every even year. Audited licensees shall submit documentation verifying their completion of continuing education hours. Licensees shall have twenty (20) days from the date of notification to submit documentation.~~

~~———— (d) ——— If a license is suspended under these rules, the licensee shall submit a renewal application and fee, otherwise, the suspended license will expire.~~

~~———— (i) ——— Renewal of a suspended license shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity,~~

or in any other conduct or activity in violation of the order of judgment by which the license was suspended.

~~\_\_\_\_\_ (e) \_\_\_\_\_ A license revoked on disciplinary grounds is subject to expiration as provided in the Act but it may not be renewed. The licensee, as a condition of reinstatement, shall meet license requirements for new licensees and shall pay a reinstatement fee set by the Board.~~

## **Section 87. Re-entry.**

(a) ~~Re-entering OTs and OTAs occupational therapists and occupational therapy assistants are individuals who:~~

~~(i) Practiced as an OT or OTA occupational therapist or an occupational therapy assistant for a minimum of one (1) year; and~~

~~(ii) Have not been involved in direct intervention, supervision, teaching, consulting, administration, case or care management, community programming, research, or otherwise practiced as an occupational therapist or an occupational therapy assistant for a minimum of three (3) years. Do not qualify for renewal.~~

~~(iii) Wish to return to the profession of occupational therapy.~~

~~(b) To qualify for re-entry, Re-entering occupational therapists and occupational therapy assistants must OTs and OTAs shall complete twelve (12) sixteen (16) hours of continuing education for every year or any portion thereof the therapist has been out of practice with a maximum of thirty-six (36) hours of continuing education required as part of the application.~~

~~(i) \_\_\_\_\_ At least one of the continuing education courses submitted for re-entry must be an occupational therapy review course.~~

~~(e) \_\_\_\_\_ Re-entering occupational therapists and occupational therapy assistants may receive a Limited License as described in Section 5 of this chapter. Upon completion of the six (6) month Limited License period a re-entering licensee may apply for and be granted a full license if the individual meets the requirements for licensure under these rules.~~

~~\_\_\_\_\_ (c) \_\_\_\_\_ An applicant seeking re-entry shall submit;~~

~~\_\_\_\_\_ (i) \_\_\_\_\_ A complete application;~~

~~\_\_\_\_\_ (ii) \_\_\_\_\_ The required fees; and~~

~~\_\_\_\_\_ (iii) \_\_\_\_\_ Documentation that meets the standards of Chapter 8, Section 2(c)~~

for the required number of hours of CE.

(d) The Application Review Committee may recommend the applicant be required to work under supervision as a condition of the approval of the application. The recommendation shall be acted upon by the Board prior to issuance of the license.

**Section 98. Reinstatement.**

~~\_\_\_\_\_ (a) \_\_\_\_\_~~ An individual ~~whose who has had a license has been~~ revoked by the Board may apply for reinstatement no less than one (1) year after the date of revocation. To apply for reinstatement the individual shall submit:

~~(i)(a)~~ Evidence that just cause for reinstatement exists;

~~(ii)(b)~~ The application and a non-refundable fee for reinstatement to the Board; and

~~(iii)(c)~~ Evidence of meeting the requirements for annual renewal of the license ~~Annual Renewal of License.~~

**Section 10. ~~Application Review Process.~~**

~~\_\_\_\_\_ (a) \_\_\_\_\_~~ Upon receipt of a completed application, the Board Office shall review the application and if it is complete and, if there are no known grounds for denial of the license requested, issue the license. If there are known grounds for denial, the Board Office shall forward the application to the Application Review Board Member (ARBM).

~~\_\_\_\_\_ (b) \_\_\_\_\_~~ The ARBM shall review the application and all other information available and following the review may:

~~\_\_\_\_\_ (i) \_\_\_\_\_~~ Approve the application if the applicant meets all requirements, or

~~\_\_\_\_\_ (ii) \_\_\_\_\_~~ If there are questions as to whether denial is appropriate, forward the application and an ARBM report to the Assistant Attorney General assigned to the Board for prosecution to review.

~~\_\_\_\_\_ (c) \_\_\_\_\_~~ If, after review, the ARBM and Assistant Attorney General recommend denial of an application:

~~\_\_\_\_\_ (i) \_\_\_\_\_~~ A preliminary denial letter shall be sent to the applicant. The letter shall:

~~\_\_\_\_\_ (A) \_\_\_\_\_~~ State the basis for the denial including relevant statutes and rules,

~~\_\_\_\_\_ (B) Advise the applicant of the right to request reconsideration.~~

~~\_\_\_\_\_ (ii) If the applicant fails to request reconsideration in writing within 30 days of the date of the preliminary denial letter, the preliminary denial becomes final.~~

~~\_\_\_\_\_ (iii) If the applicant requests reconsideration within thirty (30) days, a reconsideration conference shall be held with the ARBM, the Assistant Attorney General, and the applicant.~~

~~\_\_\_\_\_ (iv) Following a reconsideration conference, the ARBM shall either approve or deny the application.~~

~~\_\_\_\_\_ (v) If denied, the applicant must submit a written request for a hearing within thirty (30) days of the date of the denial letter.~~

~~\_\_\_\_\_ (d) Application denial hearings,~~

~~\_\_\_\_\_ (i) An application denial hearing is a formal contested case hearing conducted pursuant to the Wyoming Administrative Procedure Act.~~

~~\_\_\_\_\_ (ii) The hearing is to be conducted in the presence of a quorum of the Board, and follow the process set forth in Chapter 6. Section 4.~~

~~\_\_\_\_\_ (iii) The applicant has the burden of proving that he/she meets all requirements for the license requested.~~

~~\_\_\_\_\_ (e) The ARBM shall not take part in the consideration of any contested case.~~

~~\_\_\_\_\_ (f) The ARBM shall not, by this rule, be barred from attending any contested case hearing.~~

#### ~~**Section 11. Change of Name and/or Address.**~~

~~\_\_\_\_\_ (a) A licensee shall notify the Board of any changes in name or address in writing, within thirty (30) days of the change.~~

~~\_\_\_\_\_ (i) The Board will update the name on a license upon receipt of a copy of a legal document indicating name change (i.e. marriage certificate, divorce papers, etc.).~~

~~\_\_\_\_\_ (b) Any correspondence from the Board to the licensee required or permitted under the Act shall be mailed to the last known name and address provided to the Board by the licensee and shall be deemed proper service on the licensee.~~

#### ~~**Section 12. Duplicate License.**~~

~~———— (a) ——— A licensee shall promptly notify the Board in writing if a license is lost, stolen or destroyed.~~

~~———— (b) ——— The Board shall issue a duplicate certificate to a licensee who submits a notarized statement with the reason for requesting a duplicate certificate and fee.~~

~~———— (c) ——— The Board shall issue a statement verifying license status to a licensee's employer, jurisdiction or institution as upon receipt of the licensee's written request and the fee. The Board shall also make this information available free of charge on the Board's website.~~

### **Section 139. Emergency License.**

~~(a) ——— This section is promulgated under the authority of the Wyoming Homeland Security Act, Wyo. Stat. Ann. § 19-13-115.~~

~~(a**b**) ——— During the duration of a state of emergency declared by the Governor of the State of Wyoming, any occupational therapist or occupational therapist assistant OT or OTA licensed or certified by another state may continue to provide services in Wyoming until 30 days after the day the Governor of the State of Wyoming lifts the state of emergency. Such occupational therapists or occupational therapist assistants OTs or OTAs practicing under this section shall be deemed to be acting under an emergency license.~~

~~(b**e**) ——— At the end of the state of emergency, any occupational therapist OT or occupational therapy assistant OTA licensed or certified by another state who practiced in Wyoming under an emergency license shall ensure that their clients transition to a Wyoming-licensed professional. This subsection shall not apply to professionals who had an existing provider-client relationship before the emergency and provided continuity of care to clients during the emergency.~~

~~(c**d**) ——— Discipline.~~

~~(i) ——— Any person may file a complaint with the Board office related to the conduct of a professional practicing under an emergency license.~~

~~(ii) ——— Any professional practicing under an emergency license subjects themselves to the Board's jurisdiction. The Board may discipline any professional practicing under an emergency license as provided in Chapter 106 of the Board's rulesthes Rules.~~

~~(iii) ——— The Board may refer complaints related to the conduct of any professional practicing under an emergency license to any state in which the professional is licensed or certified.~~



(iv) If a state in which an ~~occupational therapist or occupational therapy assistant~~ OT or OTA is licensed or certified suspends the professional's license or certificate, the professional shall immediately cease practicing in Wyoming and ensure their Wyoming clients transition to another licensed professional.

## Chapter 3

### Standards of Practice of Occupational Therapy

**Section 1. Authority.** The Board promulgates these Rules according to the authority granted by Wyoming Statute § 33-40-115(b).

#### **Section ~~1~~2. Delineation of Roles.**

- (a) An OT occupational therapist currently licensed by the Board:
- (i) Evaluates the client using the appropriate evaluation tool(s) for condition.
  - (ii) Prepares a custom written program plan and provides treatment as appropriate within the licensee's scope of practice and training.
  - (iii) When applicable, assigns treatment duties based on that program plan to a licensed occupational therapy assistant ~~currently licensed by the Board~~ who has been specifically trained to carry out those duties.
  - (iv) Monitors the occupational therapy assistant's performance.
  - (v) Accepts professional responsibility for the occupational therapy assistant's performance.
- (b) An OTA occupational therapy assistant currently licensed by the board assists in the practice of occupational therapy and performs treatment and delegated assessment commensurate with their education and training.

#### **Section ~~2~~3. Supervision of Occupational Therapy Assistants.**

- (a) A licensed OTA may assist in the practice of occupational therapy only under the supervision of an OT. An OT may supervise an OTA in person or virtually through a live video and audio connection.
- (b) The supervising OT shall determine the level of supervision the OTA requires, based on the competency the OTA demonstrates. The supervisory guidelines are as follows:
- (i) An entry-level OTA is an individual working on initial skill development or entering a new practice area. At this level the OT shall provide close supervision, including weekly meetings and oversight, which could take place in person or virtually with a video and audio component.

(ii) An intermediate-level OTA is an individual working on increased skill development and mastery of basic role functions and demonstrates ability to respond to situations based on previous experience. At this level the OT shall provide routine supervision, including bi-weekly meetings and oversight, which could take place in person or virtually with a video and audio component.

(iii) An advanced-level OTA is an individual refining specialized skills with the ability to understand complex issues affecting role functions. At this level the OT shall provide general supervision, including bimonthly meetings and oversight, which could take place in person or virtually with a video and audio component.

(c) Each supervising OT shall maintain a supervisory plan and shall document the supervision of each OTA using the supervision form provided by the Board. The supervising OT shall include evidence of regular supervision and contact between the supervisor and the assistant and the supervising OT's supervision records may be subject to Board review upon request. The supervising OT shall maintain records related to their supervision for three (3) years. Supervision shall include:

(i) Communicating to the OTA the results of patient or client evaluation and discussing the goals and program plan for the patient or client;

(ii) Providing information, instruction and assistance as needed;

(iii) Annually, or more often if warranted, preparing a written appraisal of the OTA's performance and discussing the appraisal with the OTA;

(iv) Review of the Board's rules and the Wyoming Occupational Therapy Practice Act on an annual basis.

(iv) A supervising OT, after initial record review is performed, may assign the administration of standardized tests, activities of daily living evaluations, or other elements of patient evaluation and re-evaluation that do not require the professional judgment and skill of an ~~OT occupational therapist~~ to an intermediate or advanced OTA. Assignment under this subsection must be consistent with OTA's education and training.

(~~v~~d) More frequent supervision may be necessary as determined by the OT or the OTA, dependent on the level of expertise displayed by the OTA, the setting and the population characteristics.

(~~f~~) A supervisor who is temporarily unable to provide supervision shall arrange for substitute supervision by a licensed ~~an~~ OT ~~currently licensed by the Board~~. The substitute shall provide supervision that is as rigorous and thorough as that provided by the permanent supervisor.

### **Section 43. Supervision Under a Limited License.**

(a) Individuals licensed under a limited license shall receive daily direction and instruction from a licensee in good standing with the Board, either in person or virtually through a live audio and video connection. The licensed supervisor supervising licensee shall also provide evaluations of the limited licensee's therapy skills.

(b) The limited licensee may provide services outside of the physical presence of the licensed supervisor supervising licensee if the licensed supervisor supervising licensee determines that the limited licensee has demonstrated the competence to do so.

(c) Written documentation of each supervisory session shall be recorded on the supervision form provided by the Board and signed by the licensed supervisor supervising licensee and limited licensee. The limited licensee shall submit the original supervision forms to the Board as part of the application for full licensure.

(d) The supervisor shall notify the Board in writing of termination of supervision.

(e) All treatment documentation must be co-signed by the limited licensee Limited Licensee and the licensed supervisor supervising therapist.

### **Section 54. Telehealth.**

(a) In order to provide occupational therapy services via telehealth to a client in Wyoming, an OT or OTA must hold a current Wyoming license. the OT providing the service must have a valid and current license issued by the Board. Wyoming licensed OTs using telehealth technology with a client in another state may also be required to be licensed in the state in which the client receives those services and must adhere to those state licensure laws.

(b) When providing occupational therapy services via telehealth, an OT shall determine whether an in-person evaluation and treatment is necessary. and make every attempt to ensure that an OT is available if an on-site visit is required. If it is determined that an in-person evaluation and treatment is necessary, the OT shall cease telehealth provision of services until an on-site visit is completed and determined that telehealth is appropriate.

(c) The OT is responsible for determining whether any aspect of the provision of services may be conducted via telehealth or must be conducted in person. An OT shall consider at a minimum:

- (i) the complexity of the client's condition;
- (ii) his or her own knowledge skills and abilities;

- (iii) the client's context and environment;
- (iv) the nature and complexity of the intervention;
- (v) the pragmatic requirements of the practice setting; and
- (vi) the capacity and quality of the technological interface.

(d) The OT shall obtain informed consent ~~for~~ of the delivery of service via telehealth from the client prior to initiation of occupational therapy services via telehealth and maintain documentation in the client's health record.

(e) An OT or OTA providing occupational therapy services via telehealth ~~must~~shall:

~~\_\_\_\_\_~~(i) ~~Exercise~~ exercise the same standard of care when providing occupational therapy services via telehealth as with any other mode of delivery of occupational therapy services.

(f) An OTA or limited licensee providing occupational therapy services via telehealth may be supervised in person or virtually through a live audio and video connection.

**Section 65. Physical Agent Modalities.**

~~(a) — For the purposes of this section, “physical agent modalities” refers to techniques that produce a response in soft tissue using through the use of light, water, temperature, sound, or electricity.~~

~~(a)~~ (b) An OT or an OTA may use physical agent modalities in conjunction with, or in immediate preparation for, occupational therapy services under the following conditions:

(i) The OT or OTA must complete six (6) hours of post professional education in the appropriate use of physical agent modalities.

(ii) The OT or OTA ~~must~~shall complete five (5) supervised direct ~~patient treatments~~ administrations of each modality demonstrating the appropriate use of each physical agent ~~modality~~modalities. The supervisor must be a person licensed to practice as an OT or physical therapist.

~~(A) — The supervisor must be a person licensed to practice a profession under Title 33 of Wyoming Statutes Annotated and who meets the criteria set in this section.~~

(iii) The OT or OTA ~~must shall~~ retain documentation that they completed the required five (5) supervised direct ~~patient treatments~~ administrations ~~and of each the~~ modality to be used.

(be) Nothing in this section modifies or amends any provision of Section 7 of this chapter, ~~including Section 7(m)~~.

### **Section 76. Dry Needling.**

(a) Licensed ~~OT occupational therapists~~ may use dry needling techniques on patients. OT Occupational therapists who practice dry needling must retain written records of receiving dry needling training and present these records to the Board upon request. Training shall include: must be able to demonstrate that they have received dry needling training that meets the following Board's requirements:-

(i) ~~Dry needling training under this section must include~~ A minimum of twenty-four (24) hours of live, face-to-face post professional instruction in dry needling; ~~and:-~~

(ii) ~~Dry needling training under this section must include, but is not limited to,~~ Anatomy anatomy, training in indications for dry needling, contraindications for dry needling, potential risks, proper hygiene, proper use and disposal of needles, and appropriate selection of clients.

(iii) ~~Occupational therapists who practice dry needling must retain written records of receiving dry needling training and present these records to the Board upon request.~~

(b) ~~OTA Occupational therapy assistants~~ or other support personnel may not perform dry needling techniques.

### **Section 87. Code of Ethics.**

(a) It is the professional responsibility of licensees to provide services for clients without regard to race, creed, national origin, gender, disability or religious affiliation.;

(b) The licensee shall be acquainted with applicable local, state, federal laws and institutional rules and shall function accordingly.;

(c) The licensee shall inform employers, employees, and colleagues about those laws and policies that apply to the profession of occupational therapy.;

(d) The licensee shall function with discretion and integrity in relations with

colleagues and other professionals and shall be concerned with the quality of their services.;

(e) The licensee shall report illegal, incompetent, or unethical practice to the appropriate authority.;

(f) The licensee shall not disclose privileged information when participating in reviews of peers, programs or systems.;

(g) The licensee who employs or supervises colleagues shall provide appropriate supervision as provided for in Guidelines for Supervision, Roles, and Responsibilities During the Delivery of Occupational Therapy Services as incorporated in Chapter 1 of these rules, defined in the American Occupational Therapy Association (AOTA) supervision guidelines, or state laws, and rules and regulations, and institutional policies.;

(h) The licensee shall recognize the contributions of colleagues when disseminating professional information.

(i) Treatment objectives and the therapeutic process shall be formulated to ensure professional accountability.;

(j) Occupational therapy evaluation services shall be goal-directed in accordance with the overall educational, habilitation, or rehabilitation plan and shall include a system to ensure professional accountability.;

(k) The licensee shall not delegate client care, evaluations, or treatment to fieldwork students when the licensee is not in the facility. The OTA is not allowed to supervise a Level II OT student.;

(l) The licensee ~~Licensee~~ shall accurately represent the licensee's ~~their~~ competence, education, training and experience.;

(m) The licensee shall only provide services and use techniques for which the licensee ~~he or she~~ is qualified by, and have supporting documentation of, education, training or experience.;

(n) The licensee shall take all reasonable precautions to avoid harm to the client or detriment to the client's property.;

(o) The licensee shall inform subjects involved in education or research activities of the potential outcome of those activities.;

(p) When applicable, the licensee shall establish fees, based on cost analysis, that are commensurate with services rendered.;

(q) The licensee shall accurately record information and report information as required by facility standards and state and federal laws.;

(r) All data recorded in permanent files or records shall be supported by the licensee's observations or by objective measures of data collection.;

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

(t) The licensee shall not delegate to other personnel those client-related services where the clinical skills and expertise of a licensee are required.;

(u) The licensee shall refer clients to other service providers or consult with other service providers when additional knowledge and expertise is required.

**Section 28. Unprofessional Conduct.**

(a) The failure of a licensee to abide by the ethical standards adopted by the Board shall constitute unprofessional conduct and grounds for disciplinary action.

(b) The failure of a licensee to meet the requirements of Section ~~5(b)~~ 6(a) before using physical agent modalities in their practice shall constitute unprofessional conduct and grounds for disciplinary action.

(c) The failure of a licensee to meet the requirements of Section ~~67~~ 67(a) before using dry needling in their practice shall constitute unprofessional conduct and grounds for disciplinary action.



## Chapter 5

### Fees

**Section 1. Authority.** These rules are promulgated by the Wyoming State Board of Occupational Therapy under the Wyoming Occupational Therapy Practice Act, Wyoming Statute § 33-40-112.

#### **Section 21. General Information.**

~~(a) — The current fee schedule shall appear in the official records of the Board's activities and shall be kept on file in the Board office.~~

~~(b) At the time of application, a copy of the current fee schedule shall be provided to applicants.~~

~~(ea)~~ Fees shall be payable in the exact amount, by money order, or cashier's check for all services and shall be paid in advance of the services rendered. Fees for renewal fees of license may, in addition to money order or cashier's check, be paid by personal check. Online services shall be payable by credit or debit card.

~~(db)~~ All fees collected by the Board are non-refundable.

**Section 32. Fees.** The Board shall charge the fees for the following services.

(a) License Application Fee:

(i) OT License: \$225.00

(ii) OTA License: \$175.00

(b) Temporary License Application Fee:

(i) OT: \$50.00

(ii) OTA: \$25.00

(c) Limited License Application Fee:

(i) OT: \$50.00

(ii) OTA: \$25.00

(d) License Renewal Fee:

- (i) OT: \$110.00
- (ii) OTA: \$60.00
- (e) Late Renewal Fee: \$100.00
- (f) License Verification Fee: \$25.00
- (g) Duplicate Certificate Fee: \$25.00
- (h) Reinstatement Fee: \$150.00
- (i) Re-Entry Fee: \$125.00

**Chapter 6 - Repealed**

**Practice and Procedure**

**~~Section 1. — Complaints.~~**

~~\_\_\_\_\_ (a) — Complaints against a licensee shall be filed with the Board in writing and shall contain:~~

~~\_\_\_\_\_ (i) — Name and address of licensee;~~

~~\_\_\_\_\_ (ii) — Name, address and telephone number of complainant;~~

~~\_\_\_\_\_ (iii) — Nature of alleged violations;~~

~~\_\_\_\_\_ (iv) — A short and concise statement of facts relating to the alleged violations; and~~

~~\_\_\_\_\_ (v) — Signature of complainant.~~

**~~Section 2. — Investigations and Board Action.~~**

~~\_\_\_\_\_ (a) — Written complaints shall be referred to an Investigative Board Member (IBM) selected by Board staff from a rotating schedule. Licensees against whom charges are made will be advised of the investigation, the name of the IBM, and the nature of the complaint.~~

~~\_\_\_\_\_ (i) — The IBM shall not take part in the consideration of any contested case.~~

~~\_\_\_\_\_ (ii) — The IBM shall not, by this rule, be barred from attending any contested case hearing.~~

~~\_\_\_\_\_ (b) — Upon completion of the investigation, the IBM may:~~

~~\_\_\_\_\_ (i) — Recommend dismissal of the complaint;~~

~~\_\_\_\_\_ (ii) — Recommend to the Board that a letter of warning be given to the licensee; or~~

~~\_\_\_\_\_ (iii) — Recommend approval of a settlement agreement, which may include a reprimand, conditions, restrictions, suspension, voluntary surrender, other~~

discipline, or a combination thereof;

~~————— (iv) — Recommend disciplinary action, which may include a reprimand, conditions, restrictions, suspension, revocation, other discipline, or a combination thereof.~~

~~————— (e) — Voluntary Surrender. A licensee may petition the Board in writing to surrender his or her license voluntarily. The Board shall hold an expedited proceeding at its earliest convenience to consider a petition under this section. The Board may accept or reject the petition for voluntary surrender and may consider whether the licensee is under investigation.~~

~~————— **Section 3. — Service of Notice.**~~

~~————— (a) — The IBM shall notify the licensee of his or her recommended action.~~

~~————— (ii) — The notice shall:~~

~~————— (A) — Include a brief description of facts or conduct which warrant the intended action; and~~

~~————— (B) — Provide the licensee an opportunity to respond to the action within twenty (20) days of the date of the mailing of the notice.~~

~~————— (ii) — The licensee may request a contested case hearing.~~

~~————— (A) — The request for a contested case hearing shall be in writing and within the twenty (20) days permitted to respond to the IBM's recommended decision.~~

~~————— (B) — If a contested case hearing is requested the IBM shall initiate formal proceedings for disciplinary action by serving a petition and notice of hearing to the licensee.~~

~~————— (b) — Informal Conference. The licensee may request an informal conference with the IBM to provide any additional information or to resolve an administrative complaint without a hearing.~~

~~————— (c) — If the licensee does not provide a written response within twenty (20) days, the IBM shall provide the Board with his or her recommended decision for approval or rejection by the Board.~~

~~————— (i) — The IBM shall notify the licensee of the date and time that the~~

recommendation will be presented to the Board.

~~Section 4. Rules of Procedure.~~

~~(a) All contested case hearings shall be sent to the Office of Administrative Hearings (OAH) in order for OAH to conduct the hearing and issue a recommended decision.~~

~~(b) Upon receipt of the recommended decision the Board shall issue a final decision.~~

~~(c) The Board incorporates the administrative practice and procedure rules found in Chapter 2 of the Uniform Rules for Contested Case Practice and Procedure adopted by the Office of Administrative Hearings and effective October 17, 2014 found at: <https://rules.wyo.gov>, Reference Number 270.0001.2.07202017.~~

~~(d) The Board determined that incorporation of the full text of this rule would be cumbersome and inefficient given the length and nature of the rules.~~

~~(e) This incorporation by reference in subsection (a) does not include any later amendments or editions of the incorporated matter beyond the applicable date identified.~~

~~(f) A copy of the incorporated rule is available for public inspection or copying at the Board's office.~~

## **Chapter 7 - Repealed**

### **Information Practices**

#### ~~Section 1. Disclosure.~~

~~(a) The personal information compiled by the Board concerning each applicant or licensee is confidential and shall be released only to the person to whom the record pertains. Request from individuals other than the applicant can only be released with written consent of the applicant or upon court order.~~

~~(b) Disclosure of confidential records and public records shall also be governed by the Wyoming Public Records Act.~~

#### ~~Section 2. Access.~~

~~(a) Any applicant or licensee, or others with the licensee's written consent may personally inspect the contents of the individual's Board file with the following exceptions:~~

~~(i) Personal recommendations.~~

~~(ii) Unverified complaints.~~

~~(b) Record inspection shall take place under the following conditions:~~

~~(i) An appointment shall be made to review the file between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday at the Board office.~~

~~(ii) Record inspection shall take place in the presence of a Board member or a representative of its administrative staff.~~

~~Section 3. Correction and Amendment. Any applicant or licensee may clarify erroneous, inaccurate or misleading information contained within their file by submitting a written statement to the Board which shall be placed in the file.~~

~~Section 4. Requests for Roster of Licensees. The roster shall be made available to state agencies, licensees and any other organization upon written public records request, free of charge.~~

#### ~~Section 5. Public Records Request Procedure.~~

~~(a) The Board incorporates the rules found in Chapter 2 of the Uniform Procedures, Fees, Costs, and Charges for Inspecting, Copying, and Producing Public~~

~~Records adopted by the Department of Administration and Information and effective September 6, 2016 found at: <https://rules.wyo.gov> under Reference Number: 006.0011.2.09062106.~~

~~\_\_\_\_\_ (b) \_\_\_\_\_ The Board determined that incorporation of the full text of this rule would be cumbersome and inefficient given the length and nature of the rules;~~

~~\_\_\_\_\_ (c) \_\_\_\_\_ This incorporation by reference in subsection (a) does not include any later amendments or editions of the incorporated matter beyond the applicable date identified.~~

~~\_\_\_\_\_ (d) \_\_\_\_\_ A copy of the incorporated rule is available for public inspection or copying at the Board's office.~~

~~\_\_\_\_\_~~

## Chapter 8

### Renewal

Section 1. Authority. These rules are promulgated by the Wyoming State Board of Occupational Therapy under the Wyoming Occupational Therapy Practice Act, W.S. Wyoming Statute § 33-40-115(b).

#### Section 2. Annual Renewal of License.

(a) The Board shall renew the license of a licensee who submits a complete application as required by the board, meets all requirements for renewal, and pays the required fees.

(b) Licenses shall expire on July 31 of each year unless renewed under these rules. The Board shall send a notice of renewal via mail or email each year. Failure to receive notice shall not excuse a licensee from the requirement for renewal under the Act and these rules.

(c) License renewal applications shall be postmarked or hand delivered to the Board office no later than June 15.

(i) Renewal applications postmarked or hand delivered to the office after June 15 are subject to a late fee.

(ii) During even numbered years, all renewals subject to the late fee must submit proof of CE hours for audit.

(d) Licensees may submit a renewal application up to one (1) year after the expiration of the license. The licensee may not practice after their expiration date until the renewal is issued by the Board. After the one (1) year period, an applicant must seek Re-Entry.

(e) The Board will use an audit system to review CE hours obtained by the licensee.

(i) Every even year ten percent (10%) of current licensees will be selected at random and required to submit verification of the CE hours as outlined in Chapter 8, Section 3.

(ii) Licensees selected for audit will be notified by May 15 during even years. Selected licensees shall submit documentation verifying their completion of CE hours.

(f) If a license is suspended under these rules, the licensee shall submit a renewal application and fee, otherwise, the suspended license will expire.

(i) Renewal of a suspended license shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order of judgment by which the license was



suspended.

(g) A license revoked on disciplinary grounds is subject to expiration as provided in the Act but it may not be renewed. The licensee, as a condition of reinstatement, shall meet license requirements for new licensees and shall pay a reinstatement fee set by the Board.

**Section 3. Continuing Education.**

(a) Each licensee must complete twenty-four (24) hours of CE every two years.

(i) A licensee who becomes licensed during an even-numbered year prior to July 31 is not required to provide evidence of CE as part of their renewal that year.

(ii) A licensee who becomes licensed during an odd-numbered year need only complete and report twelve (12) hours of CE at the first even-numbered year after they become licensed.

(iii) CE hours may only be submitted if they are earned during the three (3) years immediately preceding the annual license renewal.

(b) All licensees shall report their number of CE hours every even numbered year in conjunction with the licensee's application for renewal.

(c) Licensees are required to keep documentation of their CE hours, to be submitted to the board upon audit. The documentation of verification of attendance shall include;

(i) Name of licensee;

(ii) Title of course;

(iii) Date of attendance;

(iv) Number of hours earned;

(v) Signature of the person verifying the attendance.

(vi) If the class is not sponsored by the NBCOT, AOTA, or WYOTA, the licensee must also present a written course description of the course on the CE log sheet.

(A) Courses shall be taken at a NBCOT, AOTA, or WYOTA live or virtual conference or you must register for the course through their site for the CE to be sponsored by the association.

(B) Courses taken through organizations that are only NBCOT, AOTA, or WYOTA approved CE providers do not meet the requirements for being sponsored.

(d) CE credit is available for live courses, on-line courses, college courses beyond degree requirements, written courses, conferences, or student supervision.

(i) For college level classes used for continuing education purposes, one semester credit shall equal fifteen (15) contact hours and one quarter semester credit shall equal ten (10) contact hours.

(ii) CE shall only be granted for supervision of a Level II student or doctoral experiential student as part of an accredited college or university training program for Occupational Therapy or Occupational Therapy Assistants.

(A) A maximum of twelve (12) CE can be earned through the provision of supervision for each bi-annual period. One (1) CE is granted for every week of supervision.

(B) Documentation for this type of CE shall include:

(1) A record of the students supervised and dates and times of supervision; and

(2) A certification of the supervision from the OT program.

(e) The primary objective of any CE credit shall be to increase the participant's competence within their practice as an occupational therapist or occupational therapy assistant as defined by W.S. 33-40-102(a).

(f) Extra hours submitted will not be carried over, and courses may not be split unless a separate attendance verification is obtained for separate sections of the education provided.

(g) Employment orientation, employment training not specific to occupational therapy, facility-specific documentation training, and CPR and First Aid classes do not count toward CE requirements.

(h) A licensee may obtain CE credit for contact hours spent presenting a class if:

(i) The licensee is the primary presenter or a co-presenter;

(ii) The licensee only submits the course for CE once;

(iii) Time spent preparing the class is not included for credit; and

(iv) The licensee submits a copy of the presentation and a program agenda that includes the presentation title, presenter's name, date, and time of the presentation.

(i) No more than four (4) of the licensee's twenty-four (24) CE hours submitted may

be made up of classes that are less than one hour in length.

## Chapter 9

### Practice and Procedures for Application

Section 1. Authority. The Board promulgates these rules according to authority granted by Wyoming Statute 33-40-115 (b) and 16-3-103(j)(i).

#### Section 2. Application Review.

(a) Assigning Application Review Committee (ARC).

(i) Board staff shall review all applications for a license.

(ii) When Board staff determines that there may be grounds to deny a license or approve a license subject to discipline or restrictions, Board staff shall refer the application to an ARC.

(b) The ARC shall investigate the application, which may include requesting additional information, meeting with the applicant, or any other action the ARC deems appropriate.

(c) The ARC may recommend that the Board:

(i) Issue, renew, relicense, or reinstate a license;

(ii) Issue, renew, relicense, or reinstate a license subject to reprimand, conditions, restrictions, or other disciplinary action;

(iii) Approve a settlement agreement; or

(iv) Deny the application.

(d) Notice of Intent.

(i) If the ARC intends to recommend that the Board deny an application or issue a license subject to other disciplinary action, the ARC shall notify the applicant of its recommendation.

(ii) The Notice of Intent shall contain:

(A) A brief description of the facts or conduct that the ARC alleges warrant denying the license or issuing the license subject to disciplinary action;

(B) Citations to the applicable statutory provisions or Board rules that the ARC alleges the applicant violated; and

(C) Notice that an applicant may request a hearing before the Board in writing within thirty (30) days from the date of mailing.

(e) The applicant shall have thirty (30) days from the date the ARC mailed the Notice of Intent to respond. The applicant may:

(i) Request that the Board hold a hearing on the ARC's recommendation;

(ii) Request that the Board table consideration of the application; or

(iii) Withdraw the application.

(f) If an applicant fails to timely respond to the Notice of Intent, the Board may accept the ARC's recommendation.

(g) There shall be a presumption of lawful service of any communication required by these rules if sent by U.S. mail to the address stated on the application or, if applicable, an updated address later provided by the applicant.

### **Section 3. Hearing Procedure.**

(a) Upon receiving a written request for a hearing from an applicant, the Board or a hearing officer appointed by the Board shall begin a contested case proceeding. Board staff or the hearing officer shall serve a Notice of Hearing on the applicant at least 30 days before the hearing. The Notice of Hearing shall contain:

(i) A brief statement of the matters asserted, including:

(A) The ARC's recommendation;

(B) The facts upon which the recommendation is based; and

(C) The statutory provisions or Board rules the applicant is alleged to have violated or failed to meet to qualify for licensure.

(ii) The time, place, and nature of the hearing;

(iii) The legal authority and jurisdiction of the Board; and

(iv) Notice of the burden and standard of proof.

(b) Any hearing officer appointed by the Board shall preside over the contested case proceeding and shall conduct the proceeding according to the Wyoming Administrative Procedure Act and Chapter 2 of the Office of Administrative Hearings rules as incorporated by reference in Chapter 1.

(c) The applicant shall bear the burden to prove by a preponderance of the evidence that he or she meets the qualifications for licensure. The burden of production shall shift to the ARC to prove by clear and convincing evidence that the applicant should not be granted an unrestricted license or license subject to discipline. The burden of production then shifts to the applicant to demonstrate that the ARC's grounds for denial or issuance of a license subject to conditions or restrictions are insufficient and that the applicant is entitled to licensure.

(d) The Board may resolve an application matter by:

(i) Adopting the ARC's recommendation without a hearing if the applicant did not request a hearing;

(ii) Resolving a dispositive motion in either party's favor;

(iii) Conducting a contested case hearing. Following the hearing and the Board's deliberation, the Board may:

(A) Issue, renew, relicense, or reinstate a license;

(B) Issue, renew, relicense, or reinstate a license with conditions, restrictions, or other disciplinary action;

(C) Deny a license, renewal, re-entry, or reinstatement;

(e) The Board shall issue a written decision or order. The decision or order shall be sent by U.S. Mail to the applicant and the applicant's attorney or representative, if any.

(i) Board action is effective on the date that the Board approves the written decision or order and it is entered into the administrative record.

(ii) Written board decisions or orders are final agency action subject to judicial review according to the Wyoming Administrative Procedure Act and the Wyoming Rules of Appellate Procedure.

## Chapter 10

### Practice and Procedures for Discipline Matters

Section 1. Authority. The Board promulgates these rules according to authority granted by Wyoming Statute 33-40-113 and 16-3-103(j)(i).

Section 2. Disciplinary Action. The Board may take disciplinary action for the following:

- (a) Violating the Board's practice act or rules;
- (b) Violating a Board order;
- (c) Unprofessional conduct as defined in W.S. 33-40-102 (a) (vi);
- (d) Violating the Code of Ethics as found in Chapter 3, Section 7 of these Rules; and
- (e) Unprofessional conduct as found in Chapter 3, section 8 of these Rules.

### Section 3. Complaint Review and Disciplinary Investigation.

(a) Complaints that a licensee has violated the Board's practice act or the Board's rules shall be submitted to the Board's office. Board staff may initiate complaints.

(b) After receiving a complaint or initiating a complaint, Board staff shall assign the complaint to an Investigation Committee (IC) for investigation.

(c) After reviewing and investigating the complaint, the IC may recommend that the Board:

- (i) Dismiss the complaint;
- (ii) Summarily suspend a license;
- (iii) Approve a settlement agreement;
- (iv) Discipline the licensee, including:
  - (A) Suspend a license;
  - (B) Revoke a license; or

(C) Impose probationary conditions.

**Section 4. Summary Suspension.**

(a) An IC may recommend that the Board summarily suspend a license at any time when the IC or Board staff believes that the licensee's continued practice imperatively requires emergency action to protect the public health, safety, or welfare.

(b) The IC shall notify the licensee of its intent to recommend summary suspension. The Notice of Intent shall contain:

(i) A copy of the complaint, if any;

(ii) A description of the grounds for the summary suspension recommendation;  
and

(iii) Notice that an expedited summary suspension proceeding shall be set at the earliest opportunity a quorum of Board members may be assembled.

(c) When the date and time of the summary suspension hearing is set, the Board staff shall notify the licensee of the date and time of the proceeding by mailing written notice and emailing electronic notice to the licensee's mailing and email addresses.

(d) The scope of the expedited summary suspension proceeding shall be limited to a presentation of the information the IC believes warrants summary suspension and any information the licensee may present on his or her behalf.

(e) Hearing Format.

(i) The IC shall describe the allegations that it believes warrant emergency action against the licensee.

(ii) The IC shall present information that demonstrates probable cause that the allegations are true.

(iii) The IC shall explain why the licensee's continued practice imperatively requires emergency action to protect the public health, safety, or welfare.

(iv) The licensee, if present, may present any information demonstrating that the allegations are not true or that, even if the allegations are true, the licensee's continued practice does not imperatively require emergency action to protect the public health, safety, or welfare.



(f) The Board may order summary suspension if it concludes that probable cause exists that the allegations are true and that the licensee's continued practice imperatively requires emergency action to protect the public health, safety, or welfare. The Board shall incorporate a finding to that effect in its order granting summary suspension.

(g) No summary suspension shall be effective until the Board has adopted a written order incorporating the reasons justifying its decision.

(h) The Board shall enter a written order granting or denying summary suspension at the summary suspension proceeding or within seven days after the proceeding. The Board shall send the order to the licensee by U.S. mail and by email.

(i) Post-Deprivation Hearing.

(i) A licensee may request a post-deprivation hearing within ten days from the date the summary suspension order is entered.

(ii) If a licensee requests a post-deprivation hearing, the Board shall conduct it within 30 days of the licensee's request and notify the licensee of the date, time, and location of the hearing.

(iii) Post-deprivation hearings shall be conducted in the same manner as summary suspension proceedings as articulated in Section 4(e) of this chapter. The sole issue before the Board at a post-deprivation hearing shall be whether the IC's allegations imperatively require emergency action to protect the public health, safety, and welfare. The Board shall affirm its decision to summarily suspend a license, and issue a written order to that effect, if it concludes that the IC has proven the allegations by a preponderance of the evidence and that the allegations imperatively require emergency action to protect the public health, safety, or welfare.

(j) Unless earlier terminated by the Board or a petition for discipline is filed under Section 6 of this chapter, summary suspensions shall lapse 180 days after the written order granting summary suspension is entered under subsection (h) of this section.

#### **Section 5. Surrender in Lieu of Discipline and Licenses Issued in Error.**

(a) A licensee may petition the Board, in writing, to voluntarily surrender a license in lieu of discipline.

(i) The IC shall recommend that the Board approve or deny the petition.

(ii) The Board may approve or deny the petition.

(b) If Board staff has reason to believe that a license has been issued despite an applicant not meeting licensure requirements and:

(i) If Board Staff has issued the license and the Board has not ratified its issuance, the license shall be rescinded and the matter shall be referred to an ARC.

(ii) If Board Staff has issued the license and the Board has ratified its issuance, the matter shall be referred to an IC.

(A) The IC may petition the Board to revoke the license or impose practice restrictions according to the procedures outlined in Section 6 of this chapter and may seek summary suspension.

(B) A revocation solely for the reasons specified this subsection shall not be considered license discipline. Nothing in this subsection prohibits discipline or application denial for a licensee's conduct.

(C) A licensee may surrender the license at issue under this provision in lieu of a hearing before the Board without Board approval.

#### **Section 6. Hearing Procedure.**

(a) There shall be a presumption of lawful service of a Notice of Intent, Petition, Notice of Hearing, or any other communication required by these rules if sent by U.S. mail to the address the licensee most recently supplied to the Board.

(b) The IC shall notify the licensee of its intent to file a petition for disciplinary action. The Notice of Intent shall:

(i) Include a brief description of the facts or conduct that warrant the intended action;

(ii) Include a description of the nature of the discipline the IC intends to seek; and

(iii) Provide the Licensee no less than 30 days to show that the licensee has complied with all lawful license requirements.

(c) The IC shall initiate proceedings for disciplinary action by filing a Petition with the Board office and serving a copy upon the licensee to the last known address of the licensee by regular U.S. mail.

(d) A licensee may respond to the Petition by filing an Answer admitting or denying the allegations in the Petition or by filing a dispositive motion.

(e) A licensee shall respond to a Petition within (20) days from the date the Petition is filed with the Board office or, if the licensee files a dispositive motion, from the date the dispositive motion is decided by entry of a written order. Failure to respond to the Petition within this time may result in a default judgment.

(f) When a petition for disciplinary action is filed, the Board or a hearing officer appointed by the Board shall begin a contested case proceeding. Board staff or the hearing officer shall serve a Notice of Hearing, with the Petition attached, on the applicant at least 30 days before the hearing. The notice of hearing shall contain:

(i) The legal authority for the Petition and statement of the Board's jurisdiction;

(ii) The facts justifying the disciplinary action sought;

(iii) The statutory provisions or Board rules the licensee is alleged to have violated;

(iv) The time, place, and nature of the hearing; and

(v) Notice of the burden and standard of proof.

(g) If a licensee fails to timely answer the allegations in a Petition or appear at a noticed hearing, and upon the IC's motion, the Board may enter default against the licensee. In entering default, the Board may:

(i) Order that the factual allegations in the Petition are to be taken as true for the purposes of the hearing;

(ii) Order that the licensee may not present evidence on some or all issues in the matter; or

(iii) Any other relief the Board determines is just.

(h) The Board may set aside an entry of default for good cause.

(i) Any hearing officer appointed by the Board shall preside over the contested case proceeding and shall conduct the proceeding according to the Wyoming Administrative Procedure Act and Chapter 2 of the Office of Administrative Hearings rules as incorporated by reference in Chapter 1.

(j) The IC shall bear the burden to prove by clear and convincing evidence that the licensee violated the Board's practice act or the Board's rules.

(k) The Board may resolve a discipline matter by:

(i) Resolving a dispositive motion in either party's favor;

(ii) Accepting a settlement agreed on by both parties;

(iii) Granting a licensee's petition for voluntary surrender in lieu of discipline under Section 5(a) of this Chapter;

(iv) Conducting a contested case hearing. Following the hearing and the Board's deliberation, the Board may, as applicable:

(A) Find no violation of the Board's practice act or rules and therefore impose no discipline on the licensee;

(B) Find that the licensee has violated the Board's practice act or rules and impose the following discipline:

(1) Impose probationary conditions;

(2) Suspend a license;

(3) Revoke a license[List possible types of discipline depending on practice act].

(l) The Board shall issue a written decision or order. The decision or order shall be sent by U.S. Mail to the licensee and the licensee's attorney or representative, if any.

(m) Board action is effective on the date that the Board approves the written decision or order and it is entered into the administrative record.

(n) Written board decisions or orders are final agency action subject to judicial review according to the Wyoming Administrative Procedure Act and the Wyoming Rules of Appellate Procedure.

**Section 7. Petition for Modifying Conditions or Restrictions.**

(a) A licensee may petition the Board to modify any conditions or restrictions on his or her license. The licensee shall submit a written petition for modification to the Board office. The petition for modification shall include evidence demonstrating:

(i) Compliance with all previously entered Board orders;

(ii) That the modification is consistent with any treatment plan or medical orders, if applicable; and

(iii) That the modification will ensure the public is adequately protected.

(b) The IC assigned the matter shall review the petition and shall recommend that the Board either grant or deny the petition within 30 days of the Board office receiving the petition.

(c) Board Consideration.

(i) The Board shall consider the petition and the IC's recommendation at its earliest convenience.

(ii) The Board may approve or deny the petition for modification.