

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY NRS  
233B.066**

**LCB FILE R113-23**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 640A.

**1. A clear and concise explanation of the need for the adopted regulation.**

The need for the proposed regulations is to address provisions of AB 343 of the 2023 Legislative Session and to address sections identified in the report to the Governor pursuant to Executive Order 2023-003 to streamline regulations; and to protect the public health, safety and welfare by ensuring that only qualified and competent occupational therapists and occupational therapy assistants are licensed in the state.

AB 343 established licensure reciprocity in Nevada for individuals residing and licensed in a member state of the Occupational Therapy Licensure Compact; authorizes the issuance of administrative citations to licensees for certain violations of regulations; establishes national certification, and testing standards for licensure eligibility eliminating duplication at the State level; and revised various provisions relating to licensing occupational therapists or occupational therapy assistants.

The Executive Order 2023-0003 report to the Governor identified regulations that could be streamlined, clarified, reduced, improved or removed which are incorporated into this regulation.

The proposed regulation requires an occupational therapist or occupational therapy assistant to maintain competence in the practice of occupational therapy; revises the requirements for obtaining a license from the Board of Occupational Therapy; revise provisions governing the expiration and renewal of such licenses; revises requirements for continuing education; revises the requirement for a licensee to file current contact information with the Board; revises provisions governing the payment of money to the Board; increases certain fees; establishes administrative fines for certain violations of regulations governing the practice of occupational therapy; and establishes additional actions that constitute grounds for disciplinary action.

**2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.**

Copies of the proposed regulation, notice of workshop and notice of intent to act upon the regulation were sent by e-mail to persons who were known to have an interest in occupational therapy as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Board of Occupational Therapy, [www.nvot.org](http://www.nvot.org), and posted at the following locations:

Board of Occupational Therapy, Administrative Office  
6170 Mae Anne Ave., Suite 1, Reno, Nevada 89523  
<https://www.leg.state.nv.us/App/Notice/A/> - Nevada Legislature Administrative Notices  
<https://notice.nv.gov/> - State of Nevada Public Notices  
<http://www.leg.state.nv.us/register/> - State of Nevada Register of Administrative Regulations

A Workshop was held to solicit comments on the proposed regulations on September 23, 2023. There were eight (8) individuals from the public in attendance at the workshop. Thereafter, on or about February 1, 2024 a Notice of Intent to Act Upon Regulations was issued.

A Public Hearing was held on March 2, 2024. There was one written comment provided by the American Occupational therapy Association (AOTA). Kristen Neville, representing AOTA, reiterated that they have had concerns with the language pertaining to the definition of Occupational Therapy Specialty or Advanced Practice Area. This could lead to confusion among licensees as to whether they need to obtain a specialty certification before providing necessary interventions to clients.

Susan Lingelbach, NOTA echoed the sentiments of AOTA in needing clarification regarding specialty practice. There were no further comments.

There were eight (8) individuals representing the public.

A copy of this summary of the public response to the adopted regulations may be obtained from the Board of Occupational Therapy, 6170 Mae Anne Ave., Suite 1, Reno, Nevada 89523, telephone 775-746-4101, or email to [board@nvot.org](mailto:board@nvot.org).

**3. The number of persons who:**

<b>(a) Attended each workshop:</b>	September 23, 2023	8
<b>(b) Attended public hearing:</b>	March 2, 2024	8
<b>(c) Testified at hearing:</b>	March 2, 2024	2
<b>(d) Submitted written comments:</b>		1

**4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**

- a) Lea Case, Belz & Case Governmental Services
- b) Rachel Martin, OT
- c) Kristen Neville, AOTA
- d) Matt Olivier, OT
- e) Susan Lingelbach, OT
- f) Casey Walker, OT
- g) Ashley Koepke, OT
- h) Jonathan Legarte, OT

**5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from small businesses, specifically licensed occupational therapists who are owners, operators or provide occupational therapy services as self-employed practitioners, by notification of work session on proposed regulation content on July 16, 2022. Additionally, comments were solicited on AB 343 of the 2023 Legislative Session, prior to and during the Legislative Session, at all public Board meetings; and at a Public Hearing on Board regulations held on April 6, 2023, pursuant to Executive Order 2023-003 and Public Workshop held on September 23, 2023.

The proposed regulation incorporates recommendations received at the work sessions, workshops, public hearing and committee hearings on AB343 approved at the 2023 Legislative Session.

The Board considered the public comments received from all parties in making a determination the occupational therapy practitioners regulated by the Board will not have their practice impacted nor will there be an impact on a small business due to the nature of the regulatory changes.

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**6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The Board of Occupational Therapy adopted the regulation on **April 5, 2024**. After consideration of public comments received at the Hearing on March 2, 2024, the regulation was revised to remove a proposed section for further review, discussions and research. The Board determined the regulation was appropriate and necessary and that undue burden is not placed upon licensees as a result of the provisions of the regulation.

**7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects; and**
- (b) Both immediate and long-term effects.**

(a) Both adverse and beneficial effects

There will be **no significant adverse economic effect of these adopted regulations** on the businesses which it is to regulate (occupational therapists and occupational therapy assistants) nor the public. The adopted regulations will benefit the occupational therapy practitioners and the public by clarifying requirements and eliminating unnecessary practice requirements aligning state level requirements with national board requirements.

(b) Both immediate and long-term effects.

Immediate effect will be improved administration through clarification of existing law and regulatory requirements. Long-term effect will be clarity and consistency in regulation of occupational therapy practitioners in Nevada.

**8. The estimated cost to the agency for enforcement of the adopted regulations.**

There are no additional costs involved in the enforcement of these adopted regulations.

**9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The Board of Occupational Therapy is not aware of any similar regulations of other state or government agencies that the adopted regulations overlap or duplicate.

**10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

The Board of Occupational Therapy is not aware of any similar federal regulations of the same activity in which the adopted regulations are more stringent.

**11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The regulation increases existing biennial licensing fees with an annual impact of approximately \$25,000 in FY 2025; \$37,500 in FY 2026 and \$55,000 annually thereafter which will be used to support the Board's functions and operations.

Administrative fines assessed for unlicensed practice or violation of specific administrative regulations are remitted to the State Treasurer and are not retained by the Board.