

**REVISED PROPOSED REGULATION OF THE
BOARD OF OCCUPATIONAL THERAPY**

LCB File No. R113-23

March 22, 2024

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1, 2, 11, 15 and 16, NRS 640A.110; § 3, NRS 640A.110 and section 2 of Assembly Bill No. 343, chapter 88, Statutes of Nevada 2023, at page 432; § 4, NRS 640A.110 and 640A.140, as amended by section 9 of Assembly Bill No. 343, chapter 88, Statutes of Nevada 2023, at page 435; § 5, NRS 640A.110 and 640A.120, as amended by section 8 of Assembly Bill No. 343, chapter 88, Statutes of Nevada 2023, at page 435; §§ 6 and 8-10, NRS 640A.180, as amended by section 14 of Assembly Bill No. 343, chapter 88, Statutes of Nevada 2023, at page 438; § 7, NRS 640A.110 and section 3 of Assembly Bill No. 343, chapter 88, Statutes of Nevada 2023, at page 432; § 12, NRS 622.233 and 640A.110; § 13, NRS 640A.190, as amended by section 15 of Assembly Bill No. 343, chapter 88, Statutes of Nevada 2023, at page 438; § 14, NRS 640A.110 and 640A.230 and section 4 of Assembly Bill No. 343, chapter 88, Statutes of Nevada 2023, at page 433.

A REGULATION relating to occupational therapy; requiring an occupational therapist or occupational therapy assistant to maintain competence in the practice of occupational therapy; revising the requirements for obtaining a license from the Board of Occupational Therapy; revising provisions governing the expiration and renewal of such licenses; revising requirements for continuing education; revising the requirement for a licensee to file current contact information with the Board; revising provisions governing the payment of money to the Board; increasing certain fees; establishing administrative fines for certain violations of regulations governing the practice of occupational therapy; establishing additional actions that constitute grounds for disciplinary action; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the licensure and regulation of occupational therapists and occupational therapy assistants by the Board of Occupational Therapy. (Chapter 640A of NRS)

Existing law requires the Board to adopt regulations establishing standards of practice for a person licensed as an occupational therapist or occupational therapy assistant. (NRS 640A.110) **Section 2** of this regulation: (1) requires a licensee to maintain competence in the practice of occupational therapy and within the licensee's personal scope of practice; and (2) establishes the manner in which a licensee demonstrates such competence.

Assembly Bill No. 343 (A.B. 343) of the 2023 Legislative Session authorizes the Board to issue a license by reciprocity as an occupational therapist or occupational therapy assistant to a person who holds a valid and unrestricted license as an occupational therapist or occupational therapy assistant, as applicable, in any state that is a member of the Occupational Therapy Licensure Compact and meets certain other requirements. (Section 2 of Assembly Bill No. 343, chapter 88, Statutes of Nevada 2023, at page 432) **Section 3** of this regulation establishes the requirements to obtain such a license by reciprocity.

A.B. 343 revised the qualifications needed for a standard license as an occupational therapist or occupational therapy assistant to require that an applicant hold a current certification as an occupational therapist or occupational therapy assistant, as applicable, with the National Board for Certification in Occupational Therapy and pass an examination approved by the Board of Occupational Therapy on the laws and regulations governing the practice of occupational therapy in this State. (NRS 640A.120, as amended by section 8 of Assembly Bill No. 343, chapter 88, Statutes of Nevada 2023, at page 435, NRS 640A.150, as amended by section 10 of Assembly Bill No. 343, chapter 88, Statutes of Nevada 2023, at page 436) **Section 4** of this regulation specifies that if an applicant is required to submit proof of certification to the Board, the applicant must provide proof of certification issued by the National Board for Certification in Occupational Therapy, or its successor organization. Because a person who is certified by the National Board for Certification in Occupational Therapy must graduate from certain educational programs to obtain that certification, **sections 4 and 5** of this regulation remove requirements for an applicant to submit to the Board of Occupational Therapy certain proof of having completed an educational program in occupational therapy. **Section 5** removes the requirements that an applicant be a citizen of the United States or have the legal right to work in the United States.

Existing law and regulations authorize the Board to issue temporary and provisional licenses to practice as an occupational therapist or occupational therapy assistant. Under existing law and regulations: (1) a temporary license may be issued to a person who is certified by the National Board for Certification in Occupational Therapy and is licensed in another state or territory of the United States; and (2) a provisional license may be issued to a person who is not certified by the National Board for Certification in Occupational Therapy but is eligible to take the examination to obtain such a certification. Both a temporary license and a provisional license are valid for 6 months, may be renewed only once and may be converted to a standard license under certain circumstances. (NRS 640A.170, as amended by section 13 of Assembly Bill No. 343, chapter 88, Statutes of Nevada 2023, at page 437; section 3 of Assembly Bill No. 343, chapter 88, Statutes of Nevada 2023, at page 432; NAC 640A.062, 640A.065) **Section 7** of this regulation revises the qualifications for a provisional license. **Section 6** of this regulation provides that if a temporary license or provisional license is converted to a standard license, the 2-year period of validity for the standard license is measured from the date on which the initial temporary or provisional license was issued.

Existing law authorizes the Board to adopt regulations governing the renewal of a license to practice as an occupational therapist or occupational therapy assistant, which may include requirements for continuing education. (NRS 640A.180, as amended by section 14 of Assembly Bill No. 343, chapter 88, Statutes of Nevada 2023, at page 438) **Section 8** of this regulation: (1) removes the requirement that a licensee pass an examination on the laws and regulations governing the practice of occupational therapy in this State at least once every 5 years; (2) provides that a licensee who has a current certification with the National Board for Certification in Occupational Therapy, or its successor organization, is deemed to have satisfied the

requirements for continuing education under certain circumstances; and (3) requires the Board of Occupational Therapy to convert into hours of continuing education any units of continuing education obtained through successful completion of a course or activity provided or approved by certain national organizations. **Section 9** of this regulation: (1) authorizes attendance and participation in an electronic, Internet-based or recorded presentation as an activity that qualifies as continuing education; (2) increases the maximum amount of continuing education credit that a licensee may receive for achieving certification in a specialty or advanced practice area related to occupational therapy; and (3) reorganizes the requirements for acceptable documentation to prove completion of continuing education. **Section 10** of this regulation removes the deadline for a licensee to submit a written request for the Board to waive all or part of the requirements for continuing education because of extenuating circumstances. (NAC 640A.101)

Existing regulations require a licensee to file with the Board a current residential and business address and to notify the Board of any change in such an address. Existing regulations require the Board to mail certain notices to the last residential address of the licensee that is on file with the Board. (NAC 640A.130) **Section 11** of this regulation: (1) eliminates the requirement for a licensee to file a business address with the Board; (2) requires a licensee to file with the Board a contact telephone number and electronic mail address in addition to filing a current residential address; and (3) requires the Board to send certain notices to the last electronic mail address of the licensee that is on file with the Board, in addition to mailing such notices to the last residential address of the licensee that is on file with the Board.

Existing law authorizes the Board to establish reasonable fees in such an amount as to reimburse the Board for the cost of carrying out the provisions of existing law regulating the practice of occupational therapy. (NRS 640A.190, as amended by section 15 of Assembly Bill No. 343, chapter 88, Statutes of Nevada 2023, at page 438) Existing law also authorizes the Board to charge a convenience fee for the use of a credit or debit card to make a payment to the Board if the issuer of the card charges the Board a fee for each such use of the card. The total amount of the convenience fees charged by the Board in a fiscal year must not exceed the total amount of fees charged to the Board by the issuer in that fiscal year. (NRS 622.233) **Section 12** of this regulation establishes requirements for the charging of such a convenience fee by the Board. **Section 13** of this regulation increases the amount of certain fees charged by the Board.

Existing law authorizes the Board to issue a citation and impose an administrative fine against a person who engages in the practice of occupational therapy without a current license issued by the Board or who engages in certain other activities that violate existing law or regulations. (NRS 640A.230; section 4 of Assembly Bill No. 343, chapter 88, Statutes of Nevada 2023, at page 433) **Section 14** of this regulation revises the administrative fines imposed against a person who practices occupational therapy with an expired license and establishes the administrative fine imposed for certain violations of existing regulations.

Under existing law, the Board is authorized to take disciplinary action against a licensee who has engaged in unprofessional conduct. (NRS 640A.200) Existing law defines such unprofessional conduct to include, without limitation, performing or supervising the performance of a pelvic examination that is not within the scope of practice of the licensee. (NRS 622.085, 640A.200) **Section 15** of this regulation additionally provides that a licensee who performs a pelvic examination or any other internal examination without first obtaining the informed, written consent of the patient commits unprofessional conduct.

Existing regulations require a licensee to use professional judgment in determining the frequency of direct contact with a patient and to ensure the frequency of such contact complies

with federal and state regulations. (NAC 640A.220) **Section 15** provides that a licensee who touches a patient in a sexual manner or in any way unnecessary for a treatment intervention commits unprofessional conduct.

Section 16 of this regulation repeals a requirement for a person whose license has been expired for 5 years or more to apply for a new license because the requirement is duplicative of an existing statute. (NRS 640A.180; NAC 640A.060) **Section 16** also repeals a requirement for a licensee to include the license number assigned to the licensee by the Board on every written document which the licensee submits to the Board. (NAC 640A.150)

Section 1. Chapter 640A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *A licensee shall maintain competence in the practice of occupational therapy and his or her personal scope of practice. For the purposes of this section, a licensee demonstrates the maintenance of competence through the licensee's application of the knowledge, skill and behavior required to function effectively, safely, ethically and legally within the scope of practice of occupational therapy.*

Sec. 3. *In addition to the requirements set forth in NAC 640A.030 and 640A.041, to be eligible to obtain a standard license by reciprocity, a person must hold a license that is active and in good standing as an occupational therapist or occupational therapy assistant issued in a state that is a member of the Occupational Therapy Licensure Compact.*

Sec. 4. NAC 640A.030 is hereby amended to read as follows:

640A.030 1. In order to receive, renew, reinstate or convert the status of, as applicable, any type of license issued by the Board, an applicant must complete an application to be provided by the Board.

2. An application must be accompanied by payment of the appropriate fee or fees.

3. An application submitted to the Board must include a statement signed by the applicant certifying that the information provided in the application is accurate.

4. An application must be submitted to the Board by the applicable date, if any.

5. ~~If an applicant is required to provide an official transcript from an educational program that is accredited by an agency approved by the Board or from an educational program in another country, the applicant must ensure that:~~

~~—(a) A sealed, official transcript is attached to his or her application; or~~

~~—(b) A sealed, official transcript is sent directly from his or her educational program to the Board.~~

~~6.]~~ If an applicant is required to provide proof of certification as an occupational therapist registered or a certified occupational therapy assistant, the applicant must ensure that proof of certification issued by the ~~[certifying agency]~~ *National Board for Certification in Occupational Therapy, or its successor organization*, is submitted to the Board.

~~7.]~~ 6. If an applicant is required to provide proof of a license obtained in another state, territory or country, the applicant must ensure that proof of such a license issued by an official governmental entity is submitted to the Board for:

(a) Any such license presently held; and

(b) Any such license held within 5 years of the submission of the application.

~~8.]~~ 7. If an applicant is required to provide proof of employment and supervision by an occupational therapist in this State, the applicant must ensure that proof of such employment and supervision is submitted to the Board, in a format approved by the Board, by the applicable date, if any.

~~9.]~~ 8. If an applicant is required to complete continuing education, the applicant must provide to the Board proof of completion of continuing education, when requested by the Board.

~~10.1~~ 9. The Board will not accept an application for the renewal of a license if the application is submitted more than 30 days after the date on which the license expired.

Sec. 5. NAC 640A.041 is hereby amended to read as follows:

640A.041 In addition to the requirements set forth in NAC 640A.030, to be eligible to obtain a standard license, a person must:

1. ~~Have graduated from:~~
 - ~~(a) An educational program which is accredited by an agency approved by the Board and which includes a fieldwork program; or~~
 - ~~(b) An educational program in another country;~~
- ~~2.1~~ Have achieved a passing score on ~~1.1~~
 - ~~(a) An examination provided by an agency approved by the Board; and~~
 - ~~(b) The~~ *the* Nevada Occupational Therapy Jurisprudence Examination; *and*
- ~~3.1~~ 2. Have current certification as an occupational therapist registered or certified occupational therapy assistant . ~~1.1~~ *and*
- ~~4.1~~ ~~Be a citizen of the United States or otherwise have the legal right to work in the United States.1~~

Sec. 6. NAC 640A.050 is hereby amended to read as follows:

640A.050 1. ~~1A~~ *Except as otherwise provided in subsections 2 and 3, a* standard license issued by the Board, including, without limitation, a standard license that has been converted to inactive status, expires 2 years after the date on which the license was issued.

2. *A standard license issued by the Board upon the conversion of a temporary license to a standard license pursuant to subsection 4 of NAC 640A.062 expires 2 years after the date of the initial issuance of the temporary license.*

3. *A standard license issued by the Board upon the conversion of a provisional license to a standard license pursuant to subsection 4 of NAC 640A.065 expires 2 years after the date of the initial issuance of the provisional license.*

4. In addition to any other applicable requirements of NAC 640A.030, to renew a standard license, a person must provide to the Board the materials required by subsection ~~6~~ 5 of NAC 640A.070.

Sec. 7. NAC 640A.065 is hereby amended to read as follows:

640A.065 1. A provisional license may be granted to a person:

(a) Who meets the requirements set forth in NAC 640A.030;

(b) ~~Who has graduated from an educational program which is accredited by an agency approved by the Board and which includes a fieldwork program;~~

~~(c)~~ Who submits proof of employment and supervision by a licensed occupational therapist upon receiving the license; and

~~(d)~~ (c) Who:

(1) Is not certified as an occupational therapist registered or a certified occupational therapy assistant; ~~or~~ and

(2) ~~Has not yet achieved a passing score on an examination provided by an agency approved by the Board but is~~ *Is eligible [and scheduled] to take [such an] the examination [with the results to be sent directly to the Board.] to obtain certification as an occupational therapist registered or a certified occupational therapy assistant from the National Board for Certification in Occupational Therapy, or its successor organization, or is eligible for the reinstatement of such a certification.*

2. A provisional license expires 6 months after the date on which it is issued or renewed.

3. A provisional license may be renewed not more than once.

4. A provisional licensee may convert his or her provisional license to a standard license if, in addition to the requirements set forth in NAC 640A.030 and 640A.041, the Board receives proof of the certification of the provisional licensee as an occupational therapist registered or a certified occupational therapy assistant.

Sec. 8. NAC 640A.070 is hereby amended to read as follows:

640A.070 1. Except as otherwise provided in ~~subsection 5,~~ *subsections 4 and 7* and NAC 640A.101, a person with a standard license shall complete, to the satisfaction of the Board, at least 24 hours of continuing education per biennial renewal cycle.

2. If the licensee obtains more than 24 hours of continuing education during a biennial renewal cycle, he or she may carry over a maximum of 10 hours towards completion of his or her requirement for continuing education for the following biennial renewal cycle.

3. ~~A licensee must achieve a passing score on the Nevada Occupational Therapy Jurisprudence Examination at least once every 5 years.~~

~~4.~~ A person may receive credit for fieldwork supervision, the completion of a particular continuing education course or the achievement of a passing score on the Nevada Occupational Therapy Jurisprudence Examination only once during a biennial renewal cycle.

~~5.~~ 4. A person who obtains a standard license within 12 months of graduation from an *accredited* educational program ~~which is accredited by an agency approved by the Board and which includes a fieldwork program~~ *in occupational therapy* is required to obtain 12 hours of continuing education in order to renew the license for the first time.

~~6.~~ 5. A licensee shall comply with the requirements for continuing education, including, without limitation, submitting to the Board a list of any courses and activities that the licensee

completed to satisfy the provisions of this section. The materials described in this subsection must be submitted at the time, as established by the Board, the licensee is required to submit to the Board the application for the renewal of his or her license.

~~7.1~~ **6.** To ensure compliance with the provisions of this section, the Board will conduct random audits of the continuing education completed by licensees.

7. *A licensee who is an occupational therapist registered or a certified occupational therapy assistant shall be deemed to have complied with the requirements of this section if:*

(a) The licensee submits to the Board proof of the licensee's certification as an occupational therapist registered or a certified occupational therapy assistant, as applicable; and

(b) The expiration date of the certification is more than 12 months after the date on which the licensee is required to submit to the Board the application for the renewal of his or her license.

8. *The Board will convert into hours of continuing education any units of continuing education obtained through the successful completion of a course or activity provided or approved by the American Occupational Therapy Association, or its successor organization, or the National Board for Certification in Occupational Therapy, or its successor organization.*

Sec. 9. NAC 640A.090 is hereby amended to read as follows:

640A.090 1. The subject matter for continuing education activities includes, without limitation:

(a) Research relating to occupational therapy;

(b) Theoretical or practical courses relating to the practice of occupational therapy;

(c) The development, administration, supervision or teaching of the clinical practice of occupational therapy;

(d) Service delivery programs performed by an occupational therapist or occupational therapy assistant; and

(e) Statutes and regulations in this State relating to occupational therapy.

2. Activities that qualify as continuing education include, without limitation:

(a) Attendance and participation at a live , *electronic, Internet-based or recorded* presentation †;

~~——(1) Which†, which~~ includes, without limitation, a workshop, seminar, conference or in-service educational program . †; and

~~——(2) Which is afterwards followed by the submission of a certificate of completion or other similar document;†~~

(b) Participation in a course of self-study that requires a formal assessment of learning †;

~~——(1) Which†, which~~ includes, without limitation, self-study through an electronic or Internet-based course, a self-paced clinical course or any other formalized self-administered course . †; and

~~——(2) Which is afterwards followed by the submission of a certificate of completion or other similar document;†~~

(c) Enrollment in an academic course †;

~~——(1) Which†, which~~ includes, without limitation, an on-site or distance learning course . †; and

~~——(2) Which is afterwards followed by the submission of a copy of a transcript indicating successful completion of the course;†~~

(d) Supervision of fieldwork:

(1) Which includes, without limitation, acting as a primary clinical fieldwork educator for level I fieldwork or level II fieldwork for occupational therapist or occupational therapy assistant students; *and*

~~(2) Which is afterwards followed by the submission of a document from the sponsoring educational program indicating the names of the students supervised, the name of the sponsoring educational program and the dates of the fieldwork; and~~

~~(3) Which may result in, for the biennial renewal cycle in which the fieldwork ends:~~

(I) A maximum of 4 hours of continuing education for level I fieldwork supervision; or

(II) A maximum of 18 hours of continuing education for level II fieldwork supervision

~~. }~~

(e) Writing in a professional capacity ~~;~~

~~(1) Which results in the publication of a peer-reviewed book, chapter of a book, or article regarding occupational therapy; and~~

~~(2) Which~~ *which* may result in a maximum of 12 hours of continuing education for the renewal cycle within which the writing is published. ~~}~~

(f) Teaching an educational or academic course that is outside the normal scope of the professional employment of the licensee ~~and:~~

~~(1) Which~~ , *which* includes, without limitation, an in-person academic course, workshop, seminar, in-service course or electronic or Internet-based course. ~~; and~~

~~(2) Which is afterwards followed by the submission of a copy of the official program, schedule or syllabus of the course which includes, without limitation, the title, dates, hours and~~

~~objectives of the course, a description of the students enrolled in the course and the signature of an appropriate official of the sponsor of the course;~~

(g) Participation in an official meeting of the Board or a professional organization formed to promote and enhance the practice of occupational therapy:

(1) Which includes, without limitation, an official board or committee meeting of such an organization; *and*

~~(2) [Which is afterwards followed by the submission of a signed document from the organization that indicates the name of the organization, the purpose of the meeting and a description of the person's role in the organization and at the meeting; and~~

~~(3)]~~ Which may result in a maximum of 6 hours of continuing education per biennial renewal cycle . ~~;~~ *and*

(h) Achievement of a type of certification ~~;~~ ~~approved by the Board, from an agency approved by the Board:~~

~~(1) Which includes, without limitation, engaging in activities that are required for certification in an occupational therapy specialty by an agency approved by the Board;~~

~~(2) Which is afterwards followed by the submission of a document from the agency showing achievement of the certification; and~~

~~(3) Which]~~ *in a specialty or advanced practice area that is directly related to the scope of practice of occupational therapy which* may result in a maximum of ~~5]~~ *12* hours of continuing education for the biennial renewal cycle in which the certification is achieved.

3. *Acceptable documentation of the successful completion of continuing education described in this section includes, without limitation:*

(a) A certificate of completion, certification or other similar document indicating the name of the licensee, subject matter, date and hours completed;

(b) A transcript indicating successful completion of an academic course;

(c) For supervision of fieldwork, documentation from the sponsoring educational program indicating the names of the students supervised, the name of the sponsoring educational program and the dates of the fieldwork;

(d) A copy of a peer-reviewed book, chapter of a book or article regarding occupational therapy that was written by the licensee and was published;

(e) An official program, schedule or syllabus of a course taught by the licensee, which includes, without limitation, the title, dates, hours and objectives of the course, a description of the students enrolled in the course and the signature of an appropriate official of the sponsor of the course; or

(f) For participation in an official meeting, a document from a professional organization that indicates the name of the organization, the purpose of the meeting held by the organization and a description of the role of the licensee in the organization and at the meeting.

4. As used in this section:

(a) “Level I fieldwork” means fieldwork designed to enrich didactic course work through direct observation and participation in selected aspects of the occupational therapy process.

(b) “Level II fieldwork” means in-depth fieldwork in delivering occupational therapy services across a variety of settings.

Sec. 10. NAC 640A.101 is hereby amended to read as follows:

640A.101 1. The Board may waive all or part of the requirements for continuing education for a person who holds a standard license if the person:

- (a) Submits a written request for a waiver; and
- (b) Provides evidence satisfactory to the Board of an extenuating circumstance which does

not allow the completion of the required continuing education.

2. Examples of an extenuating circumstance include, without limitation, extreme:

- (a) Illness or injury;
- (b) Financial hardship; or
- (c) Family hardship.

3. If a waiver is granted, the unfulfilled requirements for continuing education will be added to the person's requirements for the following biennial renewal cycle.

4. If a waiver is not granted, the Board may grant extra time for the person to fulfill any required continuing education that has not been completed.

~~5. A written request for a waiver must be submitted by the applicable date on which the licensee is required to submit to the Board the application for the renewal of his or her license.~~

Sec. 11. NAC 640A.130 is hereby amended to read as follows:

640A.130 1. Each licensee shall file his or her current residential address ~~and business~~, *contact telephone number and electronic mail* address with the Board.

2. A licensee shall notify the Board of any change in his or her residential address ~~or business~~, *contact telephone number or electronic mail* address within 30 days after the change.

3. If the Board is required by law or the provisions of this chapter to deliver any notice by mail to a licensee, the notice will be mailed to the last residential address, *and sent to the last*

electronic mail address, of the licensee which ~~was~~ *were* filed with the Board in accordance with this section.

Sec. 12. NAC 640A.155 is hereby amended to read as follows:

640A.155 1. Acceptable forms of payment to the Board are:

- (a) Personal check;
- (b) Money order;
- (c) Cashier's check; and
- (d) Credit *or debit* card.

2. The Board will charge a fee for each check or other method of payment returned to the Board or otherwise dishonored upon presentation for payment because the person had insufficient money or credit with the drawee or financial institution to pay the check or other method of payment, or the person stopped payment on the check or other method of payment without good cause. The amount of the original payment and the returned payment processing fee must be paid within 15 days after the notice of the invalid payment by one of the other forms of payment accepted by the Board.

3. If the issuer of a credit or debit card charges the Board a fee for each use of a credit card or debit card for the payment of money owed to the Board, the Board will charge a convenience fee for payment by credit or debit card. The Board will establish the convenience fee each fiscal year in an amount not to exceed the actual costs of fees charged to the Board by the issuer of the credit or debit card.

Sec. 13. NAC 640A.160 is hereby amended to read as follows:

640A.160 1. Except as otherwise provided in subsection 2, the Board will charge and collect the following fees:

(a) For an occupational therapist:

(1) Initial standard license	150 300
(2) Biennial renewal of a standard license.....	250 300
(3) A temporary or provisional license.....	150
(4) Renewal of a temporary or provisional license.....	100 150
(5) Convert a temporary or provisional license to a standard license.....	100 150
(6) Reinstatement of an expired license.....	250 300
(7) Biennial renewal of an inactive license for an occupational therapist who is not retired.....	150
(8) Biennial renewal of an inactive license for an occupational therapist who is retired	50
(9) Convert an inactive license for an occupational therapist who is not retired to a standard license	100 150
(10) Convert an inactive license for an occupational therapist who is retired to a standard license	250 300

(b) For an occupational therapy assistant:

(1) Initial standard license	175 225
(2) Biennial renewal of a standard license.....	175 225
(3) A temporary or provisional license.....	100
(4) Renewal of a temporary or provisional license.....	75 125
(5) Convert a temporary or provisional license to a standard license.....	75 125
(6) Reinstatement of an expired license.....	175 225

(7) Biennial renewal of an inactive license for an occupational therapy assistant who is not retired	125
(8) Biennial renewal of an inactive license for an occupational therapy assistant who is retired	50
(9) Convert an inactive license for an occupational therapy assistant who is not retired to a standard license	50 100
(10) Convert an inactive license for an occupational therapy assistant who is retired to a standard license	175 225
(c) General:	
(1) Processing of an initial license application <i>or an application for reinstatement of an expired license</i>	150 \$200
(2) Late fee for renewal of a license	125
(3) Verification of a license	25
(4) Returned payment processing	25

2. If an applicant for an initial license as an occupational therapist or occupational therapy assistant is an active member of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran, the Board will charge ~~1/2~~ *one-half of the* fee ~~of \$75~~ *set forth in subsection 1* for the processing of an initial license application and one-half of the fee set forth in subsection 1 for an initial license of any type.

Sec. 14. NAC 640A.170 is hereby amended to read as follows:

640A.170 1. Except as otherwise provided by subsection ~~2~~ *3*, the Board will assess against a person practicing occupational therapy whose license has expired an administrative fine of:

(a) ~~Not less than \$50 if~~ *If* the period of expiration of the license is ~~30 days or~~ less ~~+~~ *than* 3 months, \$200.

(b) ~~Not less than \$200 and not more than \$5,000 if~~ *If* the period of expiration of the license is 3 months or more but not more than ~~30 days.~~ 6 months, \$500.

(c) *If the period of expiration of the license is 6 months or more, not less than \$500 but not more than \$5,000.*

2. *Except as otherwise provided by subsection 3, the Board will assess against a licensee who:*

(a) *Fails to file with the Board the information required to be filed with the Board pursuant to NAC 640A.130, or to notify the Board of a change in such information as required by NAC 640A.130, an administrative fine of:*

(1) *For the first violation, \$50.*

(2) *For the second violation, \$150.*

(b) *Fails to provide to the Board information relating to the supervision or employment of the licensee in violation of subsection 1 or 2 of NAC 640A.260 or section 1 of LCB File No. R105-19, an administrative fine of:*

(1) *For the first violation, \$100.*

(2) *For the second violation, \$250.*

(c) *Fails to display his or her license card, or alters his or her license or license card, in violation of NAC 640A.110 or fails to wear a name tag in accordance with NAC 640A.115, an administrative fine of:*

(1) *For the first violation, \$50.*

(2) *For the second violation, \$150.*

(d) Fails to notify the Board of a change in his or her name pursuant to NAC 640A.120, or who practices under a name other than the name listed on his or her license in violation of NAC 640A.195, an administrative fine of:

(1) For the first violation, \$50.

(2) For the second violation, \$100.

(e) Fails to submit to the Board proof of the completion of the required hours of continuing education in violation of subsection 8 of NAC 640A.030 or NAC 640A.070:

(1) For the first violation, \$200.

(2) For the second violation, \$300.

(f) Violates NAC 640A.290 or section 3 of LCB File No. R001-21, an administrative fine of:

(1) For the first violation, \$250.

(2) For the second violation, \$300.

(g) Commits a third or subsequent violation of a provision listed in paragraphs (a) to (f), inclusive, an administrative fine against the licensee in an amount greater than the administrative fine assessed for a second violation of that provision, but not more than \$500.

3. The Board may waive an administrative fine assessed pursuant to subsection 1 ~~H~~ or 2:

(a) For the first offense.

(b) ~~If the period of expiration of the license is 30 days or less.~~

~~(e)~~ Upon a finding of good cause by the Board. A person seeking waiver of an administrative fine on the grounds prescribed by this paragraph shall submit a written request to the Board which must include proof satisfactory to the Board that good cause exists for the Board to waive the administrative fine. As used in this paragraph, “good cause” includes,

without limitation, circumstances under which a person suffers from an illness or disability, suffers an injury or experiences a family hardship.

Sec. 15. NAC 640A.350 is hereby amended to read as follows:

640A.350 In addition to those acts specified in subsection 4 of NRS 640A.200, the following acts, among others, constitute “unprofessional conduct”:

1. Engaging in the practice of occupational therapy when unable to do so with reasonable skill and safety to patients because of the licensee’s use of alcohol or any controlled substance, or because of any mental or physical condition or illness suffered by the licensee;
2. Being guilty of negligence in the performance of occupational therapy;
3. Allowing another person to use the license issued to the licensee;
4. Failing to report or otherwise concealing information related to a violation of this chapter or NRS 640A.200 which could result in harm to the public health and welfare;
5. Intentionally making or filing a false or misleading report;
6. Failing to file a report which is required by law or a third person or intentionally obstructing or attempting to obstruct another person from filing such a report;
7. Intentionally harassing, abusing or intimidating a patient, employer, employee, colleague or other person, either physically or verbally, including, without limitation, sexual harassment, abuse or intimidation;
8. Failing to notify the Board of disciplinary action imposed upon the licensee or applicant for licensure by a regulatory authority in another jurisdiction in which the licensee or applicant currently holds or held a license;
9. Divulging, without the consent of the patient, information gained within the context of the professional relationship with the patient, unless otherwise required by law;

10. Failing to obtain the informed consent of a patient before engaging in scientific research involving the patient;

11. Violating a provision of the *Occupational Therapy Code of Ethics and Ethics Standards* or the *Standards of Practice for Occupational Therapy*, adopted by reference in NAC 640A.205;

12. Referring or appearing to refer a patient to a third person to receive a fee or other consideration from the third person;

13. Recommending or prescribing therapeutic devices or modalities sold by a third person to receive a fee or other consideration from the third person;

14. Advertising in a manner that tends to deceive or mislead the public or advertising deceptive or misleading information;

15. Making false statements, providing false information or omitting pertinent information in connection with an application for licensure or renewal of a license;

16. Misrepresenting or falsifying credentials, including, without limitation, those relating to education, training, experience and areas of competency;

17. Practicing or offering to practice beyond the scope authorized by law; ~~to~~

18. Performing professional services which the occupational therapist knows he or she is not competent to perform ~~to~~;

19. Performing a pelvic examination or any other internal examination of a patient without first obtaining the informed, written consent of the patient; or

20. Touching a patient for a sexual purpose or in any way unnecessary for a treatment intervention.

Sec. 16. NAC 640A.060 and 640A.150 are hereby repealed.

TEXT OF REPEALED SECTIONS

640A.060 Licensing of person whose standard license has been expired for 5 years or more: Treatment as new applicant. If a person's standard license as an occupational therapist or occupational therapy assistant has been expired for 5 years or more, he or she must apply for a license as if he or she were a new applicant.

640A.150 Inclusion of license number on or with documents submitted to Board. The license number assigned to the licensee by the Board must accompany or be written upon every document which he or she submits to the Board.