

TO: Occupational Therapists  
Occupational Therapy Assistants

FROM: Donna Ashman  
Executive Director

DATE: July 16, 2015

RE: Proposed Comar Changes – 7/27/15 Deadline to Comment

Dear Licensees:

Attached are proposed changes to the State occupational therapy regulations. Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to [dhmh.regs@maryland.gov](mailto:dhmh.regs@maryland.gov), or fax to 410-767-6483. Comments will be accepted through **July 27, 2015**.

**This proposal does not include a change to the renewal cycle. The proposed change from annual renewal to biennial renewal is forthcoming via proposed changes to COMAR 10.46.04 and .05.**

The purpose of the attached proposal is, in summary, to:

- (1) update the regulations to reflect the more prevalent use of computers and electronic means of communication and to reflect the Board's paperless licensure system;
- (2) Clarify that maintenance of Current Certification with the National Board of Certification in Occupational Therapy (NBCOT) may be substituted for meeting the State continuing competency requirements;
- (3) Authorize the Board to send a license renewal notice by electronic means;
- (4) Authorize an individual to verify a license via the Board's website;
- (5) Clarify that before applying physical agent modalities to a client, a licensee shall, after completing all required 15 contact hours of education, apply a minimum of 5 client treatments within the context of a therapeutic treatment program for each specific modality;
- (6) Repeal from COMAR 10.46.01 a requirement that licenses shall be renewed annually so that the renewal cycle proposal can be specifically addressed in COMAR 10.46.04.

In addition to the opportunity to provide public comment, please feel free to contact me if you wish to discuss this proposal. Thank you.

# **PROPOSAL**

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## **Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

### **Subtitle 46 BOARD OF OCCUPATIONAL THERAPY PRACTICE**

#### **Notice of Proposed Action**

[15-151-P]

The Secretary of Health and Mental Hygiene proposes to:

- (1) Amend Regulations **.01**, **.02**, and **.04** under **COMAR 10.46.01 General Regulations**; and
- (2) Amend Regulation **.04**, adopt new Regulation **.05**, amend and recodify existing Regulation **.05** to be Regulation **.06**, and recodify existing Regulations **.06—08** to be Regulations **.07—09** under **COMAR 10.46.06 Competency Requirements for Physical Agent Modalities**.

This action was considered at public meetings on November 21, 2014 and March 20, 2015, notice of which was given by publication on the Board's website at <http://dhmh.maryland.gov/botp/SitePages/board-meetings.aspx>, pursuant to State Government Article, § 10-506(c)(1), Annotated Code of Maryland.

#### **Statement of Purpose**

The purpose of this action is to:

- (1) Update the regulations to reflect the more prevalent use of computers and electronic means of communication and to reflect the Board's paperless licensure system;
- (2) Require that a licensee applying for license renewal who has completed the continuing competency requirement shall attest to maintenance of Current Certification with the National Board of Certification in Occupational Therapy or to completion of continuing competency activities as specified in COMAR 10.46.04;
- (3) Provide that, when applying for initial licensure or reactivation or reinstatement of a license, an applicant may submit documentation certifying maintenance of current certification with the National Board of Certification in Occupational Therapy as part of the application;
- (4) Authorize the Board to send a license renewal notice by electronic means or by first-class mail to the last known electronic mail address or physical address of a licensee;
- (5) Authorize an individual to verify a license via the Board's website or by calling the Board office;
- (6) Clarify that before applying physical agent modalities to a client, a licensee shall, after completing all required 15 contact hours of education, apply a minimum of 5 client treatments within the context of a therapeutic treatment program for each specific modality;
- (7) Provide that an occupational therapist may have met the competency requirements as required in regulations to develop a treatment plan that includes recommendations for use of physical agent modalities;
- (8) Require that the therapeutic parameters for electrical modalities shall be established by the occupational therapist or occupational therapist assistant administering the modality; and
- (9) Repeal a requirement that licenses shall be renewed annually.

#### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

#### **Estimate of Economic Impact**

**I. Summary of Economic Impact.** These regulations will save licensees money by allowing the carryover of continuing education units (CEUs) from one cycle to another under certain circumstances. Thus, licensees would not have to complete and pay for as many CEU courses.

#### **II. Types of Economic Impact.**

Revenue (R+/R-)

Expenditure (E+/E-)

Magnitude

- A. On issuing agency: NONE
- B. On other State agencies: NONE
- C. On local governments: NONE

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	Indeterminate
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

D. These regulations will save licensees money by allowing the carryover of continuing education units (CEUs) from one cycle to another under certain circumstances. Thus, licensees would not have to complete and pay for as many CEU courses. The Board cannot estimate the exact amount of money that will be saved by licensees.

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to [dhmh.regs@maryland.gov](mailto:dhmh.regs@maryland.gov), or fax to 410-767-6483. Comments will be accepted through July 27, 2015. A public hearing has not been scheduled.

## 10.46.01 General Regulations

Authority: Health Occupations Article, §§10–101, 10–205, 10–311, Annotated Code of Maryland

### .01 Definitions.

- A. (text unchanged)
- B. Terms Defined.
- (1) (text unchanged)
- (2) “AOTA” means the American Occupational Therapy Association, *formerly the American Occupational Therapy Certification Board (AOTCB)*.
- (3) “Board” means the *State* Board of Occupational Therapy Practice.
- (4) “Case resolution conference (CRC)” means a voluntary, informal, and confidential proceeding to explore the possibility of a consent order resolution of [the] *a disciplinary matter* [with the administrative prosecutor].
- (5)—(10) (text unchanged)
- (11) “Expired license” means an [invalid license] *individual’s authority to practice occupational therapy or limited occupational therapy* which has not been renewed [for an additional term] through the process of renewal or elective nonrenewal *and is invalid*.
- (12) “Licensed” means *formally authorized by the Board to practice occupational therapy or limited occupational therapy*.
- [(12)] (13) “Licensee” means *an individual who is* a licensed occupational therapist or a licensed occupational therapy assistant.
- [(13)] (14) “NBCOT” means the National Board for Certification in Occupational Therapy, *formerly the American Occupational Therapy Certification Board (AOTCB)*.
- [(14)] (15) —[(28)] (29) (text unchanged)

### .02 Licensure.

- A. (text unchanged)
- B. Term and Renewal of License.
- (1) (text unchanged)
- [(2)] All licenses expire annually on June 30, regardless of the original date of licensure.]

[(3) The] (2) *At least 30 days before the expiration date of the license, the Board shall send a notice of renewal [to the last known address] by electronic means or first-class mail to the last known electronic or physical address of each active licensee, and each licensee who is inactive by elective nonrenewal, who is eligible for renewal [at least 30 days before the expiration date of the license].*

[(4)] (3) In order to renew a license, the licensee shall [return] *submit* to the Board a completed renewal application by the deadline for renewal.

[(5)] (4) The licensee shall submit [a] *an electronic payment, money order, or check*[, or electronic payment] in the amount of the renewal fee established by the Board in COMAR 10.46.05.01.

[(6)] (5)—[(7)] (6) (text unchanged)

[(8)] (7) A completed renewal application received with [a postmark or] *an on-line licensure confirmation or postmark* dated after the expiration date of June 30 will not be accepted.

[(9)] (8) At the time of licensure renewal, a licensee who has completed the continuing competency requirement shall attest to the [completion of the required contact hours as specified in COMAR 10.46.04]:

(a) *Maintenance of Current Certification with the National Board of Certification in Occupational Therapy (NBCOT); or*

(b) *Completion of continuing competency activities, as specified in COMAR 10.46.04.*

(9) *At the time of licensure renewal, a licensee shall indicate a desire to:*

(a) *Carry over contact hours from one continuing competency time frame to another; or*

(b) *Utilize contact hours carried over from the previous renewal period.*

(10) (text unchanged)

C. (text unchanged)

D. Application Procedures for Licensure. To apply for a license, an applicant shall submit the following [original] *primary source* documentation to the Board within the time frame specified on the application:

(1)—(3) (text unchanged)

(4) [A money order, check, or electronic] *An approved form of payment* in the amount of the application fee established by the Board in COMAR 10.46.05.01;

(5)—(6) (text unchanged)

(7) Documentation certifying [a minimum of 12 hours of education or]:

(a) *Maintenance of Current Certification with the National Board of Certification in Occupational Therapy (NBCOT); or*

(b) *Completion of continuing competency activities, as specified in COMAR 10.46.04*[, obtained within the 1-year period immediately preceding the application for licensure].

E. Application Procedures for Temporary Licensure.

(1) (text unchanged)

(2) To apply for a temporary license, an applicant shall submit the following [original] *primary source* documentation to the Board within the time frame specified on the application:

(a) (text unchanged)

(b) An application confirmation [letter] from the NBCOT certifying the applicant's eligibility and registration to take the examination within the eligibility activation period;

(c) (text unchanged)

(d) [A money order, check, or electronic] *An approved form of payment* in the amount of the application fee established by the Board in COMAR 10.46.05.01;

(e) If currently, or previously, authorized to practice in any other state or country, or both, *primary source* documentation from the appropriate authority of that state or country verifying:

(i)—(iii) (text unchanged)

(f) (text unchanged)

(g) Documentation certifying [a minimum of 12 hours of education or] *completion of* [continuing competency activities, as specified in COMAR 10.46.04], obtained within the 1-year period immediately preceding the application for temporary licensure].

F. Application Procedures for a Second Temporary License.

(1) (text unchanged)

(2) To apply for a second temporary license, an applicant shall submit the following [original] *primary source* documentation to the Board within the time frame specified on the application:

(a) An application confirmation [letter] from the NBCOT certifying the applicant's eligibility and registration to take the examination within the eligibility activation period;

(b) [A money order, check, or electronic] *An approved form of payment* in the amount of the second temporary license fee established by the Board in COMAR 10.46.05.01; and

(c) (text unchanged)

G. Application Procedures for Nonrenewal of License.

(1) Elective Nonrenewal.

(a) (text unchanged)

(b) For each specific [1-year] *renewal* term for which inactive status is requested, the licensee shall apply for elective nonrenewal.

(c) The Board shall send a notice of renewal [to the last known address] *by electronic means or first-class mail to the last known electronic or physical address* of each inactive licensee who is eligible for renewal or elective nonrenewal.

(d) In order to electively nonrenew a license, the licensee shall [return] *submit* to the Board a completed application, by the expiration date of June 30.

(e) A completed application for elective nonrenewal received with [a] *an online application confirmation or postmark* [or on-line licensure confirmation] dated after the expiration date will not be accepted.

(f) (text unchanged)

(2) Expiration. A license that has not been renewed [for an additional] term through the process of renewal or elective nonrenewal is expired and invalid.

H. Application Procedures for Reactivation or Reinstatement of License. To apply for reactivation after elective nonrenewal or reinstatement after expiration, an applicant shall submit the following [original] *primary source* documentation to the Board within the timeframe specified on the application:

(1)—(3) (text unchanged)

(4) [A money order, check, or electronic] *An approved form of payment* in the amount of the applicable fee established by the Board in COMAR 10.46.05.01;

(5) If currently, or previously, authorized to practice in any other state or country, or both, *primary source* documentation from the appropriate authority of that state or country verifying:

(a)—(c) (text unchanged)

(6) (text unchanged)

(7) Documentation certifying [a minimum of 12 contact hours]:

(a) *Maintenance of current certification with the National Board of Certification in Occupational Therapy (NBCOT); or*

(b) *Completion of continuing competency activities as specified in COMAR 10.46.04* [obtained within the 1-year period immediately preceding the application for reinstatement or reactivation].

I. Address Change.

(1) An applicant or licensee shall report a change of *electronic mail address or postal* address, in writing, within 30 days of the change.

(2) (text unchanged)

J. Name Change.

(1) (text unchanged)

(2) The report of a change in name shall include[:

(a) A copy of a legal document] *documentation* substantiating the name change[, such as a marriage certificate or court order, signed and certified as a true copy by the officer to whose custody the original is entrusted;

(b) The return of official license bearing the applicant's or licensee's former name; and

(c) The return of the pocket license bearing the applicant's or licensee's former name.

K. Duplicate License.

(1) If the original license is lost, stolen, or damaged, a licensee shall make a request in writing to the Board for a duplicate license.

(2) The request shall include:

(a) The damaged official license, if available;

(b) The damaged pocket license, if available; and

(c) A letter of explanation].

[L.] K. Verification of Maryland License.

(1) *Electronic Verification. An individual may independently obtain information on the licensure status of licensees in the following ways:*

(a) *Upon accessing the Board's website, an individual may view and print a licensee's status; or*

(b) *Upon phoning the Board office, an individual may receive verbal verification of a licensee's status.*

[(1)] (2) Board-Provided Verification.

(a) Upon request, the Board shall provide written documentation certifying licensure status and disciplinary history in Maryland.

[(2)] (b) The request for Board verification shall include:

[(a)] (i)—[(b)] (ii) (text unchanged)

[(c) A money order, check, or electronic] (iii) *An approved form of payment* in the amount of the verification of licensure fee established by the Board in COMAR 10.46.05.01.

[(3) Self-Obtained Verification. An individual may independently obtain information on the licensure status of licensees in the following ways:

(a) Upon accessing the Board's website, an individual may view and print a licensee's status; or

(b) Upon phoning the Board's office, an individual may receive verbal verification of a licensee's status.]

**.04 Supervision Requirements.**

A. (text unchanged)

B. Occupational Therapy Assistant.

(1) Subject to the requirements of this section, an occupational therapy assistant may practice limited occupational therapy under the supervision of an occupational therapist *provided* [if] it is at [a minimum] *least* periodic supervision.

(2)—(6) (text unchanged)

C.—F. (text unchanged)

**10.46.06 Competency Requirements for Physical Agent Modalities**

Authority: Health Occupations Article, §§ 10–101, Annotated Code of Maryland

**.04 Standards of Competence for Electrical Modalities.**

A.—B. (text unchanged)

C. Clinical Requirements. Before applying physical agent modalities to a client under this chapter, a licensee shall:

(1) (text unchanged)

(2) [Apply] *After completing all 15 contact hours of education, a licensee shall apply* a minimum of five client treatments *within the context of a therapeutic treatment program* for each specific modality under the direct clinical education of an educator as defined in this chapter.

**.05 Treatment Plan Guidelines for Physical Agent Modalities.**

A. *The occupational therapist does not need to meet the competency requirements as set forth in this chapter in order to develop a treatment plan which includes recommendations for use of physical agent modalities.*

B. *The therapeutic parameters for electrical modalities shall be established by the occupational therapist or occupational therapy assistant administering the modality.*

**[.05] .06 Documentation of Education in Electrical Physical Agent Modalities.**

A. (text unchanged)

B. Verification shall include:

(1) (text unchanged)

(2) Proof of 15 contact hours of didactic education by virtue of a certificate of completion or proof of education, *if applicable;*

(3)—(5) (text unchanged)

VAN T. MITCHELL  
Secretary of Health and Mental Hygiene