



ARIZONA STATE SENATE

Fifty-First Legislature, First Regular Session

AMENDED FACT SHEET FOR S.B. 1105

occupational therapy board

Purpose

Modifies statutes relating to the Board of Occupational Therapy Examiners (Board) and revises the Board's administrative powers and duties.

Background

Laws 1989, Chapter 296 established the Board to license occupational therapists and occupational therapy assistants (OTA) and to enforce practice standards. *Occupational therapy* (OT) is broadly defined as *the use of therapeutic services with individuals who are limited by physical or cognitive injury or illness, psychosocial dysfunction, developmental or learning disabilities, sensory processing or modulations deficits or the aging process in order to achieve optimum functional performance, maximize independence, prevent disability and maintain health* (A.R.S. § 32-3401).

The Board consists of five members appointed by the Governor including three professionals and two public members. Members serve three-year terms, are required to meet at least two times a year, and are eligible to receive compensation in the amount of \$100 for each regular or special meeting attended. The Board is charged with administering and enforcing the laws pertaining to OT, evaluating applicant qualifications, and prescribing examination and educational requirements for licensure.

The approved budget for the Board for fiscal year 2013 is \$162,700 with one and a half full-time equivalent positions (FTEs). As a 90/10 Board, 90 percent of the monies collected are deposited into the Board's fund, while 10 percent is deposited into the state General Fund (GF).

There is no anticipated fiscal impact to the GF associated with this measure.

Provisions

Definitions

1. Modifies the definition of *occupational therapy services* by including the evaluation of psychosocial skills and specifies the analysis of human performance pertains to behavioral and occupational.
2. Redefines *supervision* by listing factors a supervising professional must consider to ensure the safety of clients and defines *telerehabilitation*.

3. Clarifies that habitual use of narcotic or hypnotic drugs with a prescription from an MD or DO is not *unprofessional conduct*.
4. Allows the Board to take disciplinary action when a conviction of a felony or prescribed misdemeanor has occurred and the time for appeal has lapsed, judgment has been affirmed on appeal or when probation is granted in lieu of sentencing and provides a definition for *conviction*.
5. Makes it an act of *unprofessional conduct* to do any of the following:
 - a) engage in or solicit a sexual relationship with a former client within three months after termination of OT services, rather than only during a provider relationship;
 - b) enter into a financial relationship other than a normal billing process that leads to embezzlement or violates recognized ethical standards;
 - c) fail to maintain confidentiality without the client's written consent or unless otherwise required by law;
 - d) promote or provide treatment or services that is unwarranted for a client's condition beyond the point of reasonable benefit; and
 - e) provide telerehabilitation services without secure connections that ensure client confidentiality.

Administrative Powers of the Board

6. Increases the number of required Board meetings from at least two a year to meeting at least once each quarter and clarifies that as necessary, the first meeting after the start of the year is when the chair and other officers shall be elected.
7. Requires meetings to be compliant with open meeting laws and official records to be kept.
8. Provides immunity to Board members from civil liability for any actions that are within the members' scope of duties if they are taken without malice and in the reasonable belief that they are warranted by law.
9. Allows the Board to establish committees, for a prescribed time, to assist in carrying out its duties and make reports to the Board.
10. Permits the Board to deny a license to an applicant who commits a felony or outlined misdemeanor or who engages in unprofessional conduct.
11. Allows the Board to initiate an investigation if it believes there is a violation of a rule or order, rather than only a violation of statute, or if a licensee is practicing beyond allowable scope.
12. Permits the Board to reinstate a person's suspended license upon completion of the reapplication process and outlined requirements and payment of prescribed fees.

13. Allows the Board to permit a licensee to participate in a substance abuse recovery program in lieu of a disciplinary proceeding if:
 - a) there is evidence of impairment;
 - b) the licensee has not been convicted of a drug-related felony; and
 - c) the licensee consents as outlined and signs a waiver allowing the program to release information to the Board if the licensee is noncompliant or unable to safely practice.

Requirements for OTs and OTAs

14. Requires an OT or OTA to carry a Board-issued wallet-sized license during work hours if a facility is not available to display a license and removes the prescribed penalty for failing to display a current license.
15. Outlines specific responsibilities and requirements for OTs and OTAs when supervising students.
16. Makes technical and conforming changes.
17. Becomes effective on the general effective date.

Amendments Adopted by HHS Committee

- Reinserts stricken language pertaining to an applicant's requirement to pass the outlined exam for licensure.

Senate Action

HHS 1/23/13 DPA 7-0-0-0

Prepared by Senate Research

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