

**Clearinghouse Rule 06-115**

STATE OF WISCONSIN  
OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD

---

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : OCCUPATIONAL THERAPISTS  
OCCUPATIONAL THERAPISTS : AFFILIATED CREDENTIALING  
AFFILIATED CREDENTIALING : BOARD ADOPTING RULES  
BOARD : (CLEARINGHOUSE RULE 06- )

---

PROPOSED ORDER

An order of the Occupational Therapists Affiliated Credentialing Board to create OT 3.06 (6) and (7), relating to continuing education waivers.

Analysis prepared by the Department of Regulation and Licensing.

---

ANALYSIS

**Statute interpreted:**

Section 448.967, Stats.

**Statutory authority:**

Sections 15.085 (5) (b), 227.11 (2) and 448.965, Stats.

**Explanation of agency authority:**

Under the existing rules for continuing education requirements, there is no provision which enables the board to grant a postponement or a waiver of those requirements to credential holders in the event they face an illness, disability, or other type of hardship. This amendment would allow the board, on a case by case basis, to grant a postponement or a waiver if it was warranted. In addition, the proposal allows first-time credential holders to complete their continuing education requirements beginning with their first, full two-year licensure period.

**Related statute or rule:**

There are no other related statutes or rules other than those listed above.

**Plain language analysis:**

This proposed rule-making order would allow the board to consider waiving the continuing education requirements when a licensee is unable to complete them due to a hardship. It would also eliminate the need for first time licensees to meet continuing education requirements in the first cycle of licensure.

The rules of other professions permit credentialing authorities to consider circumstances that interfere with completion of continuing education obligations. Typically, the grounds for exception are limited to enumerated exigencies, such as disability, for example, or absence from the country for military service. Allowing for a waiver that is not limited would result in the board receiving requests without a convincing rationale for waiver. Conversely, disallowing all waiver requests prevents the board from acknowledging circumstances that cause hardship and can unjustly deprive a credential holder of his or her right to practice the profession.

First time licensees apply for a license at varying intervals within a renewal period. For applicants who file on a date proximate to the renewal deadline, the continuing education requirement is the same as it is for those who file on a date proximate to the previous renewal date. There is no recognition of the incongruity this creates among applicants or the difficulties it creates for applicants who must complete all continuing education credits in a very limited period of time prior to the renewal date. Some credentialing authorities pro-rate credits. Others waive the requirement altogether. Without such a provision, applicants may delay filing for a license during the first cycle of licensure to avoid fulfilling the complete continuing education obligation on an abbreviated timeline. This could have an adverse impact on patient care, depending on the demand for occupational therapists at any given time.

SECTION 1 addresses two separate items. It exempts those individuals from having to take continuing education between the time they first receive their license until they begin a full two-year licensing period. In addition, it permits the board to grant either a postponement, waiver, or partial waiver of the continuing education requirements based upon prolonged illness, disability, or other grounds that constitute hardship. Each request is to be considered individually.

**Summary of, and comparison with, existing or proposed federal regulation:**

There is no existing or proposed federal regulation relating to continuing education requirements for occupational therapists or occupational therapy assistants.

**Comparison with rules in adjacent states:**

**Minnesota:**

Allows licensees issued a license for a period of not less than two years to prorate the number of contact hours required for renewal based on the number of months licensed. A waiver is allowed for extreme hardship. The waiver must be in writing and must state

alternative measures if a waiver is granted. A written response to the request specifies the time limitation and required alternative measures, which must be equivalent of the continuing education being waived.

**Illinois:**

Compliance is not required in the initial cycle of licensure. Waivers may be granted for good cause, which is comprised of military service or hardship, i.e., an incapacitating illness, physical inability to travel to sites of approved programs, or similar extenuating circumstances.

**Iowa:**

Exemption is allowed for first time licensees at the first renewal. An automatic exemption is allowed for military service, meeting the requirements of another state, government employees assigned to duty outside of the United States, or when absent from a state, if the professional is engaged in active practice under circumstances approved by the board.

**Michigan:**

Michigan does not require continuing education for renewal of license.

**Summary of factual data and analytical methodologies:**

The board reviewed the rules of other regulatory boards and discovered many allow for a continuing education waiver and/or a hardship exemption. Discussions were held on the merits of aligning its rules with those that allow for both.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:**

The rule change would impose no additional record keeping requirements on small businesses. The rule would not have a disproportionate impact on small businesses.

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an “agency” in this section.

**Anticipated costs incurred by private sector:**

The department finds that this rule has no significant fiscal effect on the private sector.

**Fiscal estimate:**

The department finds that the proposed rule will have no significant fiscal impact.

**Effect on small business:**

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at [larry.martin@drl.state.wi.us](mailto:larry.martin@drl.state.wi.us), or by calling (608) 266-8608.

**Agency contact person:**

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935. Telephone: (608) 266-0495. Email: [pamela.haack@drl.state.wi.us](mailto:pamela.haack@drl.state.wi.us).

**Place where comments are to be submitted and deadline for submission:**

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email at [pamela.haack@drl.state.wi.us](mailto:pamela.haack@drl.state.wi.us). Comments must be received on or before November 22, 2006 to be included in the record of rule-making proceedings.

-----  
TEXT OF RULE

SECTION 1. OT 3.06 (6) and (7) are created to read:

OT 3.06 (6) During the time between initial licensure and commencement of a full 2-year licensure period, new licensees shall not be required to meet continuing education requirements.

(7) A licensee may apply to the board for a postponement or waiver of the requirements of this section on the grounds of prolonged illness, disability, or other grounds constituting hardship. The board shall consider each request individually on its merits and may grant a postponement, partial waiver, or total waiver of the requirements.

-----  
(END OF TEXT OF RULE)  
-----

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated \_\_\_\_\_ Agency \_\_\_\_\_  
Chairperson  
Occupational Therapists Affiliated  
Credentialing Board