

Report From Agency

**STATE OF WISCONSIN
OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD**

**IN THE MATTER OF RULEMAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : CR 21-033
OCCUPATIONAL THERAPISTS :
AFFILIATED CREDENTIALING :
BOARD :**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS: N/A

III. FISCAL ESTIMATE AND EIA: The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

Current administrative rules of the Occupational Therapists Affiliated Credentialing Board do not address telehealth practice. The proposed rule updates s. OT 4.05 and creates a new chapter, ch. OT 6, to establish standards of practice, care, and conduct for providing occupational therapy services using a telehealth visit.

Additionally, 2021 Wisconsin Act 121 went into effect on February 5, 2022. This Act provides a statutory definition for “telehealth”, which the Board is required to use when promulgating rules on the subject. Therefore, in addition to any modifications listed below, the Board also updated this rule to align with the new statutory requirement.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD’S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Occupational Therapists Affiliated Credentialing Board held a public hearing on June 8, 2021. The following people either testified at the hearing, or submitted written comments:

- Letter from Gunderson Health System, signed by:
 - Jessica Easterday, Clinical Manager of Virtual Care
 - Jamie Lohrentz, Clinical Manager, Outpatient/Neuro-vestibular/Pediatric Occupational and Physical Therapy
 - Nathan Franklin, Direct, External Affairs
- Letter from OT Leaders and Wisconsin Hospital Association, signed by:
 - Matthew Stanford, General Counsel, Wisconsin Hospital Association
 - Kay Anderson, OT, Service Line Director, Rehabilitation, Ascension Wisconsin
 - Marilyn Bert, OT, Clinical Manager, Mayo Clinic Health System Northwest Wisconsin

- Lisa Morgan, OT, Rehabilitation Manager, May Clinic Health System – Southwest Wisconsin
- David Blair, MD, Chair, Virtual Care Committee, Mayo Clinic Health System – Wisconsin
- Corey Conrath, MD, Medical Director, Occupational Health, Marshfield Clinic Health System
- Chris Meyer, Director of Virtual Care and Telehealth, Marshfield Clinic Health System
- Stephanie Olive, MS, CCC-SLP, Director of Therapies and Developmental Services, Children’s Wisconsin
- Kimberly Cronsell, MD, Medical Director for Digital Health & Experience, Children’s Wisconsin
- Bill Brazeau, MBA, Director, Virtual Health, ThedaCare
- Jessica Easterday, MBA, BSN, RN, Clinical Manager-Virtual Care, Gunderson Health System
- Tom Brazelton, MD, MPH, FAAP, Medical Director, Telehealth Program, UW Health

The Occupational Therapists Affiliated Credentialing Board summarizes the comments received either by hearing testimony or by written submission as follows:

- Letter from Gunderson Health System, proposed changes:
 - Removal of OT 6.06 or have the Board work with stakeholders to come up with new language on informed consent.
- Letter from OT Leaders and Wisconsin Hospital Association, proposed changes:
 - Update OT 6.03 Technology and Equipment to read “An occupational therapist or occupational therapy assistant who provides occupational therapy services using a telehealth visit shall utilize technology that enables the transmission of information via the technology that is of sufficient quality to be functionally equivalent to face-to-face contact. Technology that is not real-time may be utilized to prepare for an occupational therapy session or to communicate with a patient between occupational therapy sessions.”
 - OT 6.04 (3) should be removed.
 - Update OT 6.04 (4) to read “Upon scheduling a telehealth visit, clear information shall be provided to the patient that the visit will be a telehealth visit”
 - OT 6.06 Informed Consent should be removed.
 - OT 6.07 Recordkeeping should be removed.

The Occupational Therapists Affiliated Credentialing Board explains modifications to its rule-making proposal prompted by public comments as follows:

- OT 6.03 Technology and Equipment was updated to read “An occupational therapist or occupational therapy assistant who provides occupational therapy services using a telehealth visit shall utilize technology that enables the transmission of information via the technology that is of sufficient quality to be functionally equivalent to face-to-face contact. Technology that is not real-time may be utilized to prepare for an occupational therapy session or to communicate with a patient between occupational therapy sessions.”
- OT 6.04 (3) was removed.

- OT 6.04 (4) was updated to read “Upon scheduling a telehealth visit, clear information shall be provided to the patient that the visit will be a telehealth visit”
- OT 6.06 Informed Consent was removed.
- OT 6.07 Recordkeeping was removed.

VI. RESPONSE TO MEDICAL EXAMINING BOARD AND LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

The proposed rule was submitted to the Medical Examining Board on January 20, 2021. The Medical Examining Board expressed support for the proposed rule, and had no comments for the Occupational Therapists Affiliated Credentialing Board to consider.

Legislative Council staff did not make any recommendations for the proposed rule.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

N/A