

COMMITTEE ON HEALTH

SENATE AMENDMENTS TO S.B. 1128

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 32-3401, Arizona Revised Statutes is amended to
3 read:

4 32-3401. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Board" means the board of occupational therapy examiners.

7 2. "Consultation" means the act or procedure of exchanging ideas or
8 information or providing professional advice TO ANOTHER PROFESSIONAL OR
9 RESPONSIBLE PARTY REGARDING THE PROVISION OF OCCUPATIONAL THERAPY SERVICES.

10 ~~3. "Direct supervision" means that the supervising occupational~~
11 ~~therapist is on the premises at all times while a limited permittee is~~
12 ~~performing occupational therapy services or when an unlicensed person is~~
13 ~~performing authorized tasks.~~

14 ~~4.~~ 3. "Evaluation" means the AN OCCUPATIONAL THERAPIST'S assessment
15 of treatment needs within the scope of practice of occupational
16 therapy. Evaluation does not include making a medical diagnosis.

17 4. "LETTER OF CONCERN" MEANS A NONDISCIPLINARY ADVISORY LETTER TO
18 NOTIFY A LICENSEE THAT, WHILE THERE IS INSUFFICIENT EVIDENCE TO SUPPORT
19 DISCIPLINARY ACTION, THE LICENSEE SHOULD MODIFY OR ELIMINATE CERTAIN
20 PRACTICES AND THAT CONTINUATION OF THE ACTIVITIES THAT LED TO THE INFORMATION
21 BEING SUBMITTED TO THE BOARD MAY RESULT IN FUTURE ACTION AGAINST THE
22 LICENSEE'S LICENSE.

23 5. "Occupational therapist" means a person licensed pursuant to this
24 chapter to practice occupational therapy WHO IS A GRADUATE OF AN ACCREDITED
25 OCCUPATIONAL THERAPY EDUCATION PROGRAM, COMPLETES THE APPROVED FIELDWORK AND
26 PASSES THE NATIONAL EXAM.

27 6. "Occupational therapy" means the use of ~~occupational therapy~~
28 ~~services~~ THERAPEUTIC ACTIVITIES OR MODALITIES TO PROMOTE ENGAGEMENT IN
29 OCCUPATIONS with individuals who are limited by physical OR COGNITIVE injury

1 or illness, psychosocial dysfunction, developmental or learning disabilities,
2 ~~socioeconomic and cultural differences~~ SENSORY PROCESSING OR MODULATION
3 DEFICITS or the aging process in order to achieve optimum functional
4 performance, maximize independence, prevent disability and maintain health.
5 ~~including~~ OCCUPATIONAL THERAPY INCLUDES evaluation, treatment and
6 consultation BASED ON THE CLIENT'S TEMPORAL, SPIRITUAL AND CULTURAL VALUES
7 AND NEEDS.

8 7. "Occupational therapy assistant" means a person who is licensed
9 pursuant to this chapter, who is a graduate of an accredited occupational
10 therapy ASSISTANT education program ~~or the equivalent~~, who assists in the
11 practice of occupational therapy and who performs delegated procedures
12 commensurate with ~~his~~ THE PERSON'S education and training.

13 8. "Occupational therapy services" includes the following:

14 (a) ~~Evaluation and development of~~ EVALUATING, DEVELOPING and training
15 ~~in activities of daily living and social skills~~ THAT IS BASED ON THE CLIENT'S
16 OCCUPATIONAL HISTORY AND EXPERIENCES INCLUDING ACTIVITIES OF DAILY LIVING,
17 DEVELOPMENT, ACTIVITY DEMANDS, VALUES AND NEEDS. ~~Treatment modalities for~~
18 ~~occupational therapy may include play, self-help skills, work and related~~
19 ~~activities.~~

20 (b) ~~Evaluation and facilitation of~~ EVALUATING AND FACILITATING
21 developmental, perceptual-motor, INTERACTION, COMMUNICATION, neuromuscular
22 and sensory ~~integrative~~ PROCESSING function.

23 (c) ~~Enhancement of~~ ENHANCING functional achievement, prevocational
24 skills and work capabilities through the use of therapeutic, ~~kinetic,~~
25 ~~functional, manual and creative activities or exercises~~ ACTIVITIES AND
26 MODALITIES THAT ARE BASED ON ANATOMY, PHYSIOLOGY AND KINESIOLOGY, GROWTH AND
27 DEVELOPMENT, DISABILITIES, TECHNOLOGY AND ANALYSIS OF HUMAN PERFORMANCE.

28 (d) ~~Evaluation, design and fabrication of~~ EVALUATING, DESIGNING,
29 FABRICATING and training the individual in the use of selective ~~orthotic~~
30 ORTHOTICS, ~~prosthetic~~ PROSTHETICS, and adaptive devices, ASSISTIVE TECHNOLOGY
31 AND DURABLE MEDICAL EQUIPMENT as appropriate.

1 (e) ~~Administration and interpretation of~~ ADMINISTERING AND
2 INTERPRETING standardized and nonstandardized tests THAT ARE PERFORMED WITHIN
3 THE PRACTICE OF OCCUPATIONAL THERAPY, including manual muscle, sensory
4 PROCESSING, and range of motion, ~~performed within the practice of~~
5 ~~occupational therapy as an aid to treatment~~ COGNITION, DEVELOPMENTAL TESTS
6 AND SYSTEMIC FUNCTIONING, SUCH AS WOUNDS, LYMPHATIC AND CARDIAC FUNCTIONING.

7 (f) ~~Assessment and adaptation of~~ ASSESSING AND ADAPTING environments
8 for individuals with ~~handicaps and those~~ DISABILITIES OR WHO ARE at risk for
9 dysfunction.

10 9. "SUPERVISION" MEANS THAT THE SUPERVISING OCCUPATIONAL THERAPIST OR
11 OCCUPATIONAL THERAPY ASSISTANT IS PRESENT OR AVAILABLE FOR THE LICENSEE WHO
12 IS PERFORMING OCCUPATIONAL THERAPY SERVICES OR WHEN AN UNLICENSED PERSON IS
13 PERFORMING TASKS AT THE DIRECTION OF A LICENSED OCCUPATIONAL THERAPIST OR
14 LICENSED OCCUPATIONAL THERAPY ASSISTANT.

15 ~~9.~~ 10. "Unprofessional conduct" includes the following ~~acts~~:

16 (a) Habitual intemperance in the use of alcohol.

17 (b) Habitual use of narcotic or hypnotic drugs.

18 (c) Gross incompetence, repeated incompetence or incompetence
19 resulting in injury to a ~~patient~~ CLIENT.

20 (d) Having professional connection with or lending the name of the
21 licensee to an ~~illegal practitioner of occupational therapy or any of the~~
22 ~~other healing arts~~ UNLICENSED OCCUPATIONAL THERAPIST.

23 (e) PRACTICING OR OFFERING TO PRACTICE OCCUPATIONAL THERAPY BEYOND THE
24 SCOPE OF THE PRACTICE OF OCCUPATIONAL THERAPY.

25 (f) OBTAINING OR ATTEMPTING TO OBTAIN A LICENSE BY FRAUD OR
26 MISREPRESENTATION OR ASSISTING A PERSON TO OBTAIN OR TO ATTEMPT TO OBTAIN A
27 LICENSE BY FRAUD OR MISREPRESENTATION.

28 (g) FAILING TO PROVIDE SUPERVISION ACCORDING TO THIS CHAPTER AND RULES
29 ADOPTED PURSUANT TO THIS CHAPTER.

30 (h) MAKING MISLEADING, DECEPTIVE, UNTRUE OR FRAUDULENT REPRESENTATIONS
31 IN VIOLATION OF THIS CHAPTER.

1 (i) HAVING BEEN ADJUDGED MENTALLY INCOMPETENT BY A COURT OF COMPETENT
2 JURISDICTION.

3 (j) AIDING A PERSON WHO IS NOT LICENSED IN THIS STATE AND WHO DIRECTLY
4 OR INDIRECTLY PERFORMS ACTIVITIES REQUIRING A LICENSE.

5 (k) FAILING TO REPORT TO THE BOARD ANY ACT OR OMISSION OF A LICENSEE OR
6 APPLICANT OR OF ANY OTHER PERSON WHO VIOLATES THIS CHAPTER.

7 (l) ENGAGING IN THE PERFORMANCE OF SUBSTANDARD CARE BY A LICENSEE DUE
8 TO A DELIBERATE OR NEGLIGENT ACT OR FAILURE TO ACT, REGARDLESS OF WHETHER
9 ACTUAL INJURY TO THE PERSON RECEIVING OCCUPATIONAL THERAPY SERVICES IS
10 ESTABLISHED.

11 ~~(e)~~ (m) Failing to refer a ~~patient~~ whose condition is beyond the
12 training or ability of the occupational therapist to another professional
13 qualified to provide such service.

14 ~~(f) Immorality or misconduct that tends to discredit the occupational~~
15 ~~therapy profession.~~

16 ~~(g)~~ (n) Censure of a licensee or refusal, revocation, suspension or
17 restriction of a license to practice occupational therapy by any other state,
18 territory, district or country, unless ~~it can be shown~~ THE APPLICANT OR
19 LICENSEE CAN DEMONSTRATE that ~~this was not occasioned by reasons~~ THE
20 DISCIPLINARY ACTION which ~~relate~~ IS NOT RELATED to the ability to safely and
21 skillfully practice occupational therapy or to any act of unprofessional
22 conduct prescribed in this ~~paragraph~~ SUBSECTION.

23 ~~(h)~~ (o) Any conduct or practice ~~contrary to~~ THAT VIOLATES recognized
24 standards of ethics of the occupational therapy profession, any conduct or
25 practice ~~which~~ THAT does or might constitute a danger to the health, welfare
26 or safety of the ~~patient~~ CLIENT or the public, or any conduct, practice or
27 condition ~~which~~ THAT does or might impair the licensee's ability to safely
28 and skillfully practice occupational therapy.

29 ~~(i)~~ (p) Violating or attempting to violate, directly or indirectly,
30 or assisting in or abetting the violation of or conspiring to violate any of
31 the provisions of this chapter.

1 ~~(j)~~ (q) FALSELY CLAIMING TO HAVE PERFORMED A PROFESSIONAL SERVICE,
2 BILLING FOR A SERVICE NOT RENDERED, REPRESENTING A SERVICE AS THE LICENSEE'S,
3 charging or collecting ~~a clearly~~ AN excessive fee FOR SERVICES NOT PERFORMED.

4 ~~(k)~~ (r) Sexually inappropriate conduct with a ~~patient~~ CLIENT. For
5 the purposes of this ~~subdivision~~ SECTION, "sexually inappropriate conduct"
6 includes:

7 ~~(i) Engaging in sexual intercourse or oral genital contact with a~~
8 ~~patient.~~

9 ~~(ii) Inappropriately touching a patient's genital area.~~

10 ~~(iii) Suggesting a sexual relationship with a current patient.~~

11 ~~(i) Engaging in sexual intercourse or oral genital contact with a~~
12 ~~patient.~~

13 ~~(ii) Inappropriately touching a patient's genital area.~~

14 ~~(iii) Suggesting a sexual relationship with a current patient.~~

15 (i) ENGAGING IN OR SOLICITING A SEXUAL RELATIONSHIP, WHETHER
16 CONSENSUAL OR NONCONSENSUAL, WHILE A PROVIDER RELATIONSHIP EXISTS.

17 (ii) MAKING SEXUAL ADVANCES, REQUESTING SEXUAL FAVORS OR ENGAGING IN
18 OTHER VERBAL CONDUCT OR INAPPROPRIATE PHYSICAL CONTACT OF A SEXUAL NATURE
19 WITH A PERSON TREATED BY AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY
20 ASSISTANT.

21 (iii) INTENTIONALLY VIEWING A COMPLETELY OR PARTIALLY DISROBED CLIENT
22 IN THE COURSE OF TREATMENT IF THE VIEWING IS NOT RELATED TO TREATMENT UNDER
23 CURRENT PRACTICE STANDARDS.

24 ~~(l)~~ (s) Knowingly making a false or misleading statement to the board
25 on a license application or renewal form required by the board or any other
26 verbal or written communications directed to the board or its staff.

27 ~~(m)~~ (t) Committing a felony, whether or not involving moral
28 turpitude, or a misdemeanor involving moral turpitude. ~~In either case,~~
29 Conviction by a court of competent jurisdiction or a plea of no contest is
30 conclusive evidence that the felony or misdemeanor was committed.

31 ~~(n)~~ (u) Violating ~~a board rule that is~~ ANY FEDERAL LAW, STATE LAW,
32 RULE OR REGULATION directly related to the practice of occupational therapy.

1 (v) ENGAGING IN FALSE ADVERTISING OF OCCUPATIONAL THERAPY SERVICES.

2 (w) ENGAGING IN THE ASSAULT OR BATTERY OF A CLIENT.

3 (X) FALSIFYING CLIENT DOCUMENTS OR REPORTS.

4 (y) FAILING TO DOCUMENT OR MAINTAIN CLIENT TREATMENT RECORDS OR
5 FAILING TO PREPARE CLIENT REPORTS WITHIN THIRTY DAYS OF SERVICE OR TREATMENT.

6 (z) FAILING TO RENEW A LICENSE WHILE CONTINUING TO PRACTICE
7 OCCUPATIONAL THERAPY.

8 (aa) SIGNING A BLANK, UNDATED OR UNPREPARED PRESCRIPTION FORM.

9 Sec. 2. Section 32-3403, Arizona Revised Statutes, is amended to read:

10 32-3403. Executive director; personnel; duties; compensation

11 A. The board may employ and discharge an executive director and other
12 officers and employees as it deems necessary and designate their duties.
13 Board personnel are eligible to receive compensation as determined pursuant
14 to section 38-611.

15 ~~B. The issuance of licenses shall be recorded by the executive~~
16 ~~director, and the documentation of licenses awarded or withheld shall be~~
17 ~~filed with the board.~~

18 B. THE EXECUTIVE DIRECTOR SHALL:

19 1. ISSUE AND DOCUMENT LICENSES APPROVED BY THE BOARD.

20 2. KEEP A RECORD OF THE STATUS OF LICENSES AND LICENSEES.

21 3. KEEP A RECORD OF THE STATUS OF APPLICANTS, INCLUDING THOSE WHOSE
22 APPLICATIONS ARE DENIED.

23 4. PERFORM TASKS AND DUTIES ASSIGNED BY THE BOARD.

24 5. COLLECT FEES AND MAINTAIN ACCOUNTING RECORDS ACCORDING TO GENERALLY
25 ACCEPTED ACCOUNTING PRINCIPLES.

26 Sec. 3. Section 32-3404, Arizona Revised Statutes, is amended to read:

27 32-3404. Powers and duties; rules; reports; hearings;

28 commissioners

29 A. The board shall:

30 1. Administer, coordinate and enforce ~~the provisions of~~ this chapter.

31 2. Evaluate the qualifications of applicants.

32 3. Prescribe examination requirements for licensure.

1 4. Adopt rules necessary to carry out ~~the provisions of~~ this chapter.

2 5. Conduct INFORMAL MEETINGS, FORMAL INTERVIEWS AND hearings and keep
3 records and minutes necessary to carry out its functions.

4 6. PRESCRIBE EDUCATIONAL PROGRAMS REQUIRED FOR LICENSURE PURSUANT TO
5 THIS CHAPTER.

6 B. The board may:

7 1. Appoint commissioners to assist in the performance of its duties.

8 2. Report any violations of this chapter or rules adopted pursuant to
9 this chapter to a county attorney, the attorney general, a federal agency or
10 a state or national organization.

11 C. Commissioners appointed pursuant to subsection B, paragraph 1 shall
12 receive no compensation for their services but shall be reimbursed for actual
13 and necessary expenses ~~which~~ THAT they ~~may~~ incur in the performance of their
14 duties.

15 Sec. 4. Section 32-3405, Arizona Revised Statutes, is amended to read:

16 32-3405. Occupational therapy fund; deposit of receipts by
17 board; account

18 A. The occupational therapy fund is established. Pursuant to sections
19 35-146 and 35-147, civil penalties imposed under section 32-3442, subsection
20 ~~G~~, K shall be deposited in the state general fund. The board shall deposit
21 ten per cent of all other monies collected under this chapter in the state
22 general fund and deposit the remaining ninety per cent in the occupational
23 therapy fund. Monies in the occupational therapy fund may be used by the
24 board for payment of all necessary board expenses, including compensation and
25 expenses of board members ~~upon~~ AND BOARD STAFF ON claims approved by the
26 board.

27 B. Monies deposited in the occupational therapy fund are subject to
28 section 35-143.01.

29 C. The board shall establish a separate account in the fund for monies
30 transferred to the fund pursuant to section 32-4105.

31 Sec. 5. Heading Change

1 3. A person employed as an occupational therapist or occupational
2 therapy assistant by the United States or any agency of the United States, if
3 that person provides occupational therapy solely under the direction or
4 control of the agency ~~by which~~ THAT EMPLOYS that person ~~is employed~~.

5 4. A person pursuing a supervised course of study leading to a degree
6 or certificate in occupational therapy at an accredited or approved
7 educational program PURSUANT TO SECTION 32-3404, if the person is designated
8 by a title that clearly indicates the person's status as a student or
9 trainee.

10 5. A person fulfilling the supervised fieldwork experience
11 requirements of section 32-3423, if the experience constitutes a part of the
12 FIELDWORK experience necessary to meet the requirements of section 32-3423.

13 6. A person performing occupational therapy services in this state for
14 purposes of continuing education, consultation ~~and~~ OR training, if these
15 services are performed for no more than a cumulative total of sixty days in a
16 calendar year in association with an occupational therapist licensed under
17 this chapter, if either of the following is true:

18 (a) The person is licensed as an occupational therapist or
19 occupational therapy assistant in good standing in another state.

20 (b) The person is certified by the national board for certification in
21 occupational therapy, incorporated.

22 7. A person employed by a health care provider licensed pursuant to
23 another chapter of this title if the person does not claim to be an
24 occupational therapist or occupational therapy assistant and ~~such~~ THE
25 services or activities constitute a part of the person's job duties.

26 Sec. 9. Section 32-3423, Arizona Revised Statutes, is amended to read:
27 32-3423. Application for licensure; qualifications;
28 examinations

29 A. An applicant for licensure as an occupational therapist or as an
30 occupational therapy assistant shall ~~file a written application, provided by~~
31 ~~the board, showing to the satisfaction of the board that the applicant:~~

1 1. ~~Is~~ BE of good moral character ~~and has not been convicted of a crime~~
2 ~~of moral turpitude.~~ IN DETERMINING WHETHER A PERSON IS OF GOOD MORAL
3 CHARACTER, THE BOARD MAY CONSIDER WHETHER THE PERSON HAS BEEN CONVICTED OF A
4 FELONY OR MISDEMEANOR INVOLVING MORAL TURPITUDE.

5 2. ~~Has~~ Successfully ~~completed~~ COMPLETE the academic requirements of an
6 educational program in occupational therapy ~~recognized~~ APPROVED by the board
7 PURSUANT TO SECTION 32-3404. ~~The board shall recognize an occupational~~
8 ~~therapy and occupational therapy assistant educational program accredited by~~
9 ~~the accreditation council for occupational therapy education established by~~
10 ~~the American occupational therapy association, incorporated.~~

11 3. ~~Has~~ Successfully ~~completed~~ COMPLETE a period of supervised
12 fieldwork experience acceptable to the board. The board shall require:

13 (a) For an occupational therapist, a minimum of ~~twenty-four weeks~~ NINE
14 HUNDRED TWENTY-EIGHT HOURS of supervised fieldwork experience.

15 (b) For an occupational therapy assistant, a minimum of ~~eight weeks~~
16 SIX HUNDRED EIGHT HOURS of supervised fieldwork experience.

17 4. ~~Has passed~~ PASS an examination administered pursuant to section
18 32-3424.

19 5. PAY THE APPLICATION FEE PRESCRIBED IN SECTION 32-3427.

20 B. AN APPLICANT WHO IS DENIED A LICENSE MAY REQUEST A HEARING PURSUANT
21 TO TITLE 41, CHAPTER 6, ARTICLE 10.

22 Sec. 10. Section 32-3424, Arizona Revised Statutes, is amended to
23 read:

24 32-3424. Examination for licensure of occupational therapists
25 and occupational therapy assistants

26 A. An applicant for licensure shall take a written examination
27 approved and administered by the national board for certification in
28 occupational therapy, incorporated. The examination shall test an
29 applicant's knowledge of the basic and clinical services relating to
30 PROVIDING occupational therapy SERVICES, ~~occupational therapy~~ techniques and
31 methods, ~~and other subjects as the board requires.~~

1 4. Three hundred dollars for an application for reinstatement.

2 5. Seventy-five dollars for a limited ~~permit~~ LICENSE.

3 6. Fifty dollars for a duplicate license.

4 B. The board, by rule, shall establish and collect fees for renewal of
5 an inactive status license.

6 Sec. 13. Section 32-3428, Arizona Revised Statutes, is amended to
7 read:

8 32-3428. Limited license

9 A. The board may grant a limited ~~permit~~ LICENSE to a person who has
10 not taken the licensure examination if that person was trained in this
11 country and has completed the academic and fieldwork requirements of this
12 chapter.

13 B. The board may grant a limited ~~permit~~ LICENSE to a foreign-trained
14 person who has completed the academic and fieldwork requirements of this
15 chapter if that person has not taken the licensure examination ~~and~~ BUT
16 submits proof of acceptance to take the licensure examination.

17 C. The holder of a limited ~~permit~~ LICENSE may practice occupational
18 therapy only under the ~~direct~~ supervision of a licensed occupational
19 therapist.

20 D. A limited ~~permit~~ LICENSE is valid for four months and becomes void
21 if a person fails the examination. The limited ~~permit~~ LICENSE expires if a
22 person passes the examination and is issued a license under section 32-3425,
23 subsection C.

24 E. The board may reissue a limited ~~permit~~ LICENSE once.

25 Sec. 14. Section 32-3429, Arizona Revised Statutes, is amended to
26 read:

27 32-3429. Foreign trained applicants

28 Foreign trained occupational therapists and occupational therapy
29 assistants shall:

30 1. Satisfy the examination requirements of section 32-3424. ~~The board~~
31 ~~shall require foreign trained applicants to furnish~~

32 2. PROVIDE proof of good moral character. ~~and completion of~~

1 3. COMPLETE THE academic and supervised fieldwork requirements,
2 substantially equal to those contained in section 32-3423 before taking the
3 examination.

4 4. SUBMIT A COMPLETED APPLICATION AS PRESCRIBED BY THE BOARD.

5 5. PAY ALL APPLICABLE FEES PRESCRIBED PURSUANT TO SECTION 32-3427.

6 Sec. 15. Section 32-3430, Arizona Revised Statutes, is amended to
7 read:

8 32-3430. Fingerprinting

9 A. Each applicant for original licensure, license renewal, license
10 reinstatement or a limited ~~permit~~ LICENSE pursuant to this chapter who has
11 not previously done so shall submit a full set of fingerprints to the board
12 AT THE APPLICANT'S OR LICENSEE'S EXPENSE for the purpose of obtaining a state
13 and federal criminal records check pursuant to section 41-1750 and Public Law
14 92-544. The department of public safety may exchange this fingerprint data
15 with the federal bureau of investigation.

16 B. If the board does not have any evidence or reasonable suspicion
17 that the applicant has a criminal history AND THE APPLICANT OTHERWISE
18 SATISFIES THE REQUIREMENTS OF SECTION 32-3423, the board may issue a license
19 or a limited ~~permit~~ LICENSE before it receives the results of a criminal
20 records check.

21 C. The board shall suspend a license or a limited ~~permit~~ LICENSE of a
22 person who submits an unreadable set of fingerprints and does not submit a
23 new readable set of fingerprints within twenty days after being notified by
24 the board ~~to do so~~.

25 D. This section does not affect the board's authority to otherwise
26 issue, deny, cancel, terminate, suspend or revoke a license OR A LIMITED
27 LICENSE.

28 Sec. 16. Section 32-3441, Arizona Revised Statutes, is amended to
29 read:

30 32-3441. Proper use of title or designation of occupational
31 therapists; license display; supervision;
32 responsibility

1 A. A person who ~~receives a license~~ IS LICENSED PURSUANT TO THIS
2 CHAPTER to practice as an occupational therapist and WHO is in good standing
3 may use the title of licensed occupational therapist and the abbreviation
4 "O.T.," "O.T.R." or "O.T.R./L.". A person who ~~receives a license~~ IS LICENSED
5 PURSUANT TO THIS CHAPTER to practice as a licensed occupational therapy
6 assistant and who is in good standing may use the title of licensed
7 occupational therapy assistant and the abbreviation "O.T.A.", "C.O.T.A." or
8 "C.O.T.A./L.".

9 B. Each occupational therapist and occupational therapy assistant
10 shall display the person's current license in each facility in which the
11 person practices occupational therapy. If an occupational therapist or ~~the~~
12 occupational therapy assistant fails to display the current license the board
13 shall take disciplinary action against the licensee. Disciplinary action may
14 include censure, a civil penalty, probation, suspension or any combination of
15 these actions.

16 ~~C. Except as provided in section 32-3422, it is unlawful for any~~
17 ~~person who is not licensed as an occupational therapist or an occupational~~
18 ~~therapy assistant pursuant to this chapter to do any of the following:~~

- 19 ~~1. Practice or assist in the practice of occupational therapy.~~
20 ~~2. Claim to be an occupational therapist, an occupational therapy~~
21 ~~assistant or a provider of occupational therapy services.~~
22 ~~3. Use in connection with the person's name any words, letters,~~
23 ~~abbreviations or insignia indicating or implying that the person is an~~
24 ~~occupational therapist or an occupational therapy assistant or provides~~
25 ~~occupational therapy services.~~

26 ~~D.~~ C. The board may adopt rules reasonably related to sound ~~patient~~
27 CLIENT care governing ~~the~~ AN OCCUPATIONAL THERAPIST'S supervision of licensed
28 occupational therapy assistants ~~and~~ OR unlicensed ~~personnel by an~~ EMPLOYEES
29 OR VOLUNTEERS WORKING WITH THE occupational therapist.

30 ~~E.~~ D. An occupational therapist ~~is~~ AND AN OCCUPATIONAL THERAPY
31 ASSISTANT ARE professionally and legally responsible for ~~patient~~ SUPERVISING
32 CLIENT care given by nonlicensed ~~personnel under his supervision~~ EMPLOYEES OR

1 VOLUNTEERS. If an occupational therapist OR OCCUPATIONAL THERAPY ASSISTANT
2 fails to adequately supervise ~~patient~~ CLIENT care given by ~~nonlicensed~~
3 ~~personnel~~ EMPLOYEES OR VOLUNTEERS, the board may take disciplinary action
4 against the ~~licensee~~ OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY
5 ASSISTANT.

6 Sec. 17. Section 32-3442, Arizona Revised Statutes, is amended to
7 read:

8 32-3442. Disciplinary action; informal meetings; formal interviews;
9 hearings; penalties; files

10 A. The board may ~~investigate any evidence and determine whether:~~

11 1. RECEIVE WRITTEN COMPLAINTS FILED AGAINST LICENSEES AND CONDUCT
12 INVESTIGATIONS.

13 2. CONDUCT AN INVESTIGATION AT ANY TIME ON ITS OWN INITIATIVE WITHOUT
14 RECEIPT OF A WRITTEN COMPLAINT IF THE BOARD HAS REASON TO BELIEVE THAT THERE
15 MAY BE A VIOLATION OF THIS CHAPTER, THAT a licensee is or may be guilty of
16 unprofessional conduct or THAT A LICENSEE is or may be incompetent.

17 B. Any occupational therapist, occupational therapy assistant or
18 health care institution as defined in section 36-401 shall, ~~and any other~~
19 ~~person may,~~ report to the board any information the occupational therapist,
20 occupational therapy assistant, health care institution or individual may
21 have that appears to show that an occupational therapist or an occupational
22 therapy assistant is or may be guilty of unprofessional conduct or is or may
23 be incompetent.

24 C. A person who provides information to the board in good faith
25 PURSUANT TO SUBSECTION A OR B OF THIS SECTION is not subject to an action in
26 civil damages as a result of providing the information. ~~If requested, the~~
27 ~~board shall not disclose the identity of a person who provides information~~
28 ~~unless the information or the name of a person making a complaint is~~
29 ~~essential to proceedings conducted pursuant to this section or unless~~
30 ~~required by a court of law.~~

31 ~~B.~~ D. Within sixty days of receipt OF A WRITTEN COMPLAINT PURSUANT TO
32 SUBSECTION A OF THIS SECTION OR INFORMATION PURSUANT TO SUBSECTION B OF THIS

1 SECTION, the board shall notify the licensee about whom information ~~as~~
2 ~~described in subsection A of this section~~ has been received as to the content
3 of the COMPLAINT OR information. ~~The board shall keep a complaint~~
4 ~~confidential until it verifies or substantiates the complaint.~~

5 ~~C. E. If, in the opinion of the board, it appears that a licensee is~~
6 ~~or may be in violation of this chapter,~~ The board may request an informal
7 MEETING OR A FORMAL interview with the licensee ~~concerned~~ OR ANY OTHER PERSON
8 TO FURTHER ITS INVESTIGATION OR TO RESOLVE A COMPLAINT.

9 F. If ~~the A~~ licensee refuses the ~~invitation or if the licensee accepts~~
10 ~~the invitation and if the results of the interview indicate that a civil~~
11 ~~penalty or suspension or revocation of a license may be in order,~~ BOARD'S
12 REQUEST FOR AN INFORMAL MEETING OR A FORMAL INTERVIEW, OR IN PLACE OF HOLDING
13 AN INFORMAL MEETING OR A FORMAL INTERVIEW, the board shall hold a hearing
14 pursuant to title 41, chapter 6, article 10.

15 G. IF THE RESULTS OF AN INFORMAL MEETING OR A FORMAL INTERVIEW
16 INDICATE THAT SUSPENSION OR REVOCATION OF THE LICENSEE'S LICENSE OR A CIVIL
17 PENALTY MIGHT BE IN ORDER, THE BOARD SHALL NOTIFY THE LICENSEE OF THE TIME
18 AND PLACE FOR A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

19 H. If, at the informal MEETING OR FORMAL interview, the board finds a
20 violation of this chapter, but THE VIOLATION IS not of sufficient seriousness
21 to merit a civil penalty or suspension or revocation of a license, it may
22 take one or more of the following actions:

23 1. Issue a decree of censure.

24 2. ~~Fix a period~~ ESTABLISH LENGTH and terms of probation best adapted
25 to protect the public health and safety and rehabilitate or educate the
26 licensee ~~concerned~~. Probation may include:

27 (a) Submission of the licensee to examinations to determine the mental
28 or physical condition or professional competence of the licensee AT THE
29 LICENSEE'S EXPENSE.

30 (b) Occupational therapy training or education that the board believes
31 to be necessary to correct deficiencies ~~found either pursuant to a hearing or~~
32 ~~through an examination pursuant to this section.~~

1 (c) Review or supervision of the licensee's practice that the board
2 finds necessary to identify and correct deficiencies in the practice,
3 INCLUDING A REQUIREMENT THAT THE LICENSEE REGULARLY REPORT TO THE BOARD ON
4 MATTERS RELATED TO THE LICENSEE'S PROBATIONARY REQUIREMENTS.

5 (d) Restrictions on the nature and scope of practice to ensure that
6 the licensee does not practice beyond the limits of the licensee's
7 capabilities.

8 3. Issue a letter of concern. ~~For the purposes of this paragraph,
9 "letter of concern" means a nondisciplinary advisory letter to notify a
10 licensee that, while there is insufficient evidence to support disciplinary
11 action, the board believes that the licensee should modify or eliminate
12 certain practices and that continuation of the activities that led to the
13 information being submitted to the board may result in action against the
14 licensee's license.~~

15 4. Issue a nondisciplinary order requiring the licensee to complete a
16 prescribed number of hours of continuing education in an area or areas
17 prescribed by the board to provide the licensee with the necessary
18 understanding of PRACTICE STANDARDS FOR LICENSEES INCLUDING current
19 developments, skills, procedures or treatment INTERVENTIONS.

20 5. DISMISS THE COMPLAINT.

21 ~~D. I. IN ADDITION TO THE TERMS OF PROBATION DESCRIBED IN SUBSECTION
22 H, PARAGRAPH 2 OF THIS SECTION, probation, if deemed necessary, may also
23 include temporary suspension or restriction of the licensee's license to
24 practice. A LICENSEE'S failure to comply with probation OR ANY OTHER BOARD
25 ORDER is cause for a hearing pursuant to title 41, chapter 6, article 10,
26 based on failure to comply with probation or any other acts or conduct in
27 violation of this chapter and rules adopted pursuant to this chapter.~~

28 ~~E. If, in the opinion of the board, it appears that a licensee is or
29 may be in violation of this chapter, the board may hold a hearing in
30 accordance with title 41, chapter 6, article 10 in lieu of or in addition to
31 an informal interview as provided in subsection C of this section.~~

1 ~~F.~~ J. At the licensee's expense the board may require any combination
2 of a physical, mental or occupational therapy competence examination as part
3 of a board investigation, including, if necessary, the taking of depositions
4 as may be required to fully inform itself with respect to the allegations
5 presented by the complaint. These examinations may include biological fluid
6 testing.

7 ~~G.~~ K. Any licensee who, after a hearing, is found guilty of
8 unprofessional conduct or incompetence is subject to THE FOLLOWING:

9 1. A decree of censure.~~;~~

10 2. Probation as provided in this section.~~;~~

11 3. Suspension OR REVOCATION of THE license.~~;~~ ~~revocation of license,~~

12 4. Imposition of a civil penalty of not less than two hundred fifty
13 dollars nor more than ten thousand dollars for each violation of this
14 chapter. ~~or~~

15 5. Any combination of these sanctions for a period of time or
16 permanently and under conditions as the board deems appropriate for the
17 protection of the public health and safety ~~and as is just in the~~
18 ~~circumstances.~~

19 ~~H.~~ L. A LICENSEE SHALL RETURN TO THE BOARD A revoked or suspended
20 license ~~shall be returned to the board~~ within fifteen days after it is
21 revoked or suspended.”

22 Amend title to conform

~~2/19/08~~

~~9:25 AM~~

~~S: H0/ae~~

2/22/08

10:50 AM

hr