

<b>Regulatory Analysis Form</b> (Completed by Promulgating Agency) (All Comments submitted on this regulation will appear on IRRC's website)	<b>INDEPENDENT REGULATORY REVIEW COMMISSION</b> <b>RECEIVED</b>  <b>JAN 26 2022</b>  Independent Regulatory Review Commission  IRRC Number: 3331
(1) Agency <b>Department of State, Bureau of Professional and          Occupational Affairs, State Board of Occupational Therapy          Education and Licensure</b>	
(2) Agency Number: 16A Identification Number: 6713	
(3) PA Code Cite:  <b>49 Pa. Code §§ 42.1, 42.9-42.10</b>	
(4) Short Title:  <b>Licensure by Endorsement</b>	
(5) Agency Contacts (List Telephone Number and Email Address):  <b>Primary Contact: Nicole L. VanOrder, Board Counsel, State Board of Occupational Therapy          Education and Licensure, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax          717-787-0251) nivanor@pa.gov.</b>  <b>Secondary Contact: Jacqueline A. Wolfgang, Senior Regulatory Counsel, Department of State, P.O.          Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 787-0251) jawolfgang@pa.gov.</b>	
6) Type of Rulemaking (check applicable box):  <input checked="" type="checkbox"/> Proposed Regulation <input type="checkbox"/> <b>FINAL REGULATION</b> <input type="checkbox"/> Final Omitted Regulation	<input type="checkbox"/> Emergency Certification Regulation; <input type="checkbox"/> Certification by the Governor <input type="checkbox"/> Certification by the Attorney General
(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)  <b>Section 3111 of 63 Pa.C.S. (relating to licensure by endorsement) requires the State Board of Occupational          Therapy Education and Licensure (Board) to issue a license, certificate, registration or permit to an          applicant to allow practice in this Commonwealth provided the applicant meets the following criteria:          holds a current license, certificate, registration or permit from another state, territory or country whose          licensing requirements are substantially equivalent to or exceed the requirements in this Commonwealth;          demonstrates competency by methods determined by the Board; has not committed any act that constitutes          grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice that          profession or occupation in this Commonwealth, unless the Board determines such conduct is not an          impediment to granting the license; is in good standing and has not been disciplined by the jurisdiction          that issued the license, certificate, registration or permit, unless the Board determines such conduct is not          an impediment to granting the license; and the applicant pays fees, as established by regulation.</b>	

Additionally, 63 Pa.C.S. § 3111 authorizes boards and commissions to issue a provisional license, certificate, registration, or permit while an applicant is satisfying remaining requirements for licensure by endorsement, for which the Board must set by regulation the terms of expiration.

The act of July 1, 2020, (P.L. 575, No. 53) added 63 Pa.C.S. § 3111 as part of the consolidation of the act of July 2, 1993 (P.L. 345, No. 48) (Act 48) into Title 63, Chapter 31 of the Pennsylvania Consolidated Statutes. The text of 63 Pa.C.S. § 3111 was originally added to Act 48 by the act of July 1, 2019 (P.L. 292, No. 41) (Act 41). This rulemaking effectuates Act 41.

(8) State the statutory authority for the regulation. Include specific statutory citation.

63 Pa.C.S. § 3111 requires licensing boards and commissions to issue a license, certificate, registration or permit to an applicant, who pays fees established by the Board by regulation, provided the applicant meets certain criteria for eligibility. 63 Pa.C.S. § 3111 also requires boards and commissions that issue provisional licenses, certificates, registration or permits to set the expiration of the provisional endorsement license by regulation.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

63 Pa.C.S. § 3111(a)(5) requires the Board to set the fee to be charged by regulation and subsection (b)(2) requires the Board to set an expiration of the provisional endorsement license. Otherwise, this rulemaking is not mandated by any Federal or state law or court order, or Federal regulation.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The regulation is needed to implement 63 Pa.C.S. § 3111 to provide for licensure by endorsement to applicants from other states, territories and countries. Act 41 was enacted due to a recognition that licensed professionals from other jurisdictions have difficulty obtaining a license to practice in this Commonwealth. Licensure by endorsement under 63 Pa.C.S. § 3111 helps eliminate unnecessary barriers to licensure for citizens from other jurisdictions and for military personnel and their spouses while maintaining sufficient safeguards to ensure public protection. 63 Pa.C.S. § 3111 enables boards and commissions under the Bureau of Professional and Occupational Affairs (Bureau) to issue a license by endorsement, and further provides for a provisional endorsement license to quickly move these professionals into the workforce without unnecessary delays, which reduces the barriers to employment.

Since the effective date of Act 41 (August 30, 2019), the Board has not received any licensure by endorsement applications. Based upon the number of applications received, the Board estimates receiving less than 5 applications on an annual basis.

Nationally, licensure requirements in occupational therapy are largely standardized throughout the country, specifically through certifications issued by the National Board for Certification in Occupational Therapy ("NBCOT"). Currently, all 50 states, Guam, Puerto Rico, and the District of Columbia require NBCOT certification. The Board does not anticipate receiving many Act 41 applications. Applicants with NBCOT certification, in accordance with Section 12 of the act, meet eligibility requirements for licensure.

However, this proposed regulation would provide a pathway to licensure for individuals from other countries and territories that are determined to have substantially equivalent licensure standards.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no federal standards applicable to the subject matter of the regulation.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

This regulation will not adversely affect Pennsylvania's ability to compete with other states. The purpose of 63 Pa.C.S. § 3111 is to make it easier for out-of-state applicants, including military spouses, who have an out-of-state professional or occupational license to work in Pennsylvania. The purpose of 63 Pa.C.S. § 3111 is also to reduce barriers to employment, which will make Pennsylvania more competitive. 63 Pa.C.S. § 3111 and the Board's proposed regulations will encourage skilled workers and their families to move to Pennsylvania, which will enhance the workforce, provide more talent for businesses, and help grow Pennsylvania's economy. Surrounding states also have similar laws and regulations for licensure by endorsement in the occupational therapy field.

In comparing the proposed regulation to other states, the Board researched states in the Northeastern region of the United States. The Board identified one other State (New Jersey) that has a comprehensive license by endorsement law that is applicable to the various professional licensing boards in New Jersey. Similar to 63 Pa.C.S. § 3111, New Jersey requires its professional licensing boards to issue a license to any person who holds a current professional or occupational license in good standing whose licensure standards are substantially equivalent to the current standards of New Jersey. Similar to 63 Pa.C.S. 3111, New Jersey requires applicants to demonstrate competency through its requirement of practicing within five years prior to the date of the application. However, New Jersey does not provide discretion to issue a discretionary provisional license. Thus, Pennsylvania's competency requirements are similar to New Jersey and Pennsylvania also provides for the ability to obtain a provisional license while completing remaining licensure requirements.

The Board also researched whether other occupational therapy state boards have similar licensure by endorsement laws and regulations applicable to the occupational therapy profession. For those states that have similar licensure by endorsement laws and regulations applicable to the occupational therapy profession, the Board compared the following criteria: eligibility requirements (substantial equivalence or other standard); competency methods; and provisional licenses, including expiration of the provisional license. A summary of the requirements for licensure by endorsement or reciprocity by these remaining states is as follows:

Connecticut allows for individuals licensed in occupational therapy from another state or jurisdiction to enter without re-examination provided the other jurisdiction has "substantially equivalent" licensing standards to the receiving state, while Maryland, Vermont, similarly allow for individuals licensed in occupational therapy from another state to enter without re-examination if that other jurisdiction has licensure requirements "at least equal" to the licensing standards in the receiving state. Delaware, Ohio, and Massachusetts have similar provisions but simply require current licensure in another state.

Maine, New York, and Rhode Island have no specific endorsement or reciprocity language. However, because, the requirements for licensure in all 50 states are so similar and depend on NBCOT examination and certification, candidates with a license in one state are likely to have the qualifications to enter these states as well. West Virginia law requires that the laws be equivalent, so much would depend on how broadly the term “equivalent” is interpreted. If it is broadly construed, then their system would function much as the other states with “substantial equivalent” or “at least equal” language. And, if it is strictly construed, West Virginia would be devoid of true endorsement, but most, if not, all applicants would still be able to enter due to the standardization of requirements across the country.

New Hampshire and New Jersey require that applicants be active in the profession. New Hampshire requires 100 hours in another jurisdiction during each 12-month period for 2 consecutive 12-month periods preceding the date of submission, while New Jersey requires at least 1 year of practice, and not less than 1,200 hours within the 5 years prior to the date of application.

Based on this information, the Board does not believe that the amendments, which are necessary to effectuate the provisions of 63 Pa.C.S. § 3111, will put Pennsylvania at a competitive disadvantage. To the contrary, by allowing applicants who can demonstrate competency by experience in the practice of occupational therapy for at least two of the five years immediately preceding the date of application to become licensed through endorsement, and by providing for provisional licenses, which allows applicants to work while satisfying remaining requirements for licensure by endorsement, Pennsylvania will be at a competitive advantage over states that do not have licensure by endorsement.

Additionally, Connecticut, New Hampshire, New Jersey, and West Virginia provide for licensure by endorsement for applicants from other countries and territories, but the other states in the Northeast region do not. Thus, the Board’s proposed regulations make Pennsylvania more competitive than many of the states discussed here in that it provides an additional licensure pathway for individuals from other countries and territories.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This rulemaking does not affect other regulations of the Board or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. (“Small business” is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

In drafting the proposal, the Board solicited comments from stakeholders and interested parties in April of 2020. The Chair and Program Director for Occupational Therapy of Elizabethtown College submitted a comment in support of the proposed regulations. Additionally, the Pennsylvania Occupational Therapy Association, in public Board meetings, expressed its support of the proposed regulations.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

For purposes of this rulemaking, the Board estimates that approximately less than 5 individuals will apply for licensure by endorsement on an annual basis.

According to the Small Business Administration (SBA), there are approximately 1,079,103 businesses in Pennsylvania; of which 1,074,787 are small businesses. Of the 1,074,787 small businesses, 225,751 are small employers (those with fewer than 500 employees) and the remaining 849,036 are non-employers. Thus, the vast majority, approximately 99.6% of businesses in Pennsylvania are considered small businesses. According to the Pennsylvania Department of Labor and Industry, in 2019, 26% of occupational therapists in Pennsylvania were employed by hospitals, 26% were employed in offices of health care practitioners other than physicians, 12% were employed in elementary and secondary schools, 9% were engaged in home healthcare services, and 8% were employed in nursing care facilities.

For the business entities listed above for occupational therapists and occupational therapy assistants, small businesses are defined in Section 3 of Act 76 of 2012, which provides that a small business is defined by the U.S. Small Business Administration's (SBA) Small Business Size Regulations under 13 CFR Ch. 1 Part 121. Specifically, the SBA has established these size standards at 13 CFR 121.201 for types of businesses under the North American Industry Classification System (NAICS). In applying the NAICS standards to the types of businesses where occupational therapists and occupational therapy assistants work, offices of other health care practitioners include the following 3 types of businesses: offices of physicians for which a small business is one with \$12.0 million or less in average annual receipts; offices of physical, occupational and speech therapists and audiologists (with a small business threshold of \$8.0 million or less in average annual receipts); and all other miscellaneous health practitioners (with a small business threshold of \$8.0 million or less in average annual receipts). For general medical and surgical hospitals, a small business is one with \$41.5 million or less in average annual receipts, while nursing care facilities (skilled nursing facilities) are defined as a small business if they have \$30.0 million or less in average annual receipts. Elementary and secondary schools are considered a small business if they have \$12.0 million or less in average annual receipts. Home health care services are considered small businesses if they have \$16.5 million or less in average annual receipts.

Based upon this variety of employers, the Board believes that most occupational therapy professionals in Pennsylvania are employed in small businesses. The Board does not collect information on the size of the businesses where its licensees are employed. However, for purposes of determining the economic impact on small businesses, the Board must assume that a large number of its licensees either are, or work for, small businesses as that term is defined by the SBA and Pennsylvania's Regulatory Review Act.

This rulemaking only affects individuals who apply for licensure by endorsement. These individuals would be impacted by the \$30 fee to apply for licensure. This fee is the same amount as applicants who apply by any form of initial licensure under the act. Whether small businesses will be impacted by the regulations depends on whether the businesses would pay the application fee for licensure by endorsement. Because the application fees are incurred by individuals applying for initial licensure by endorsement, any business (small or otherwise) could avoid these costs by requiring employees to pay their own licensure costs.

Moreover, the proposed rulemaking has a positive impact in that it is implementing 63 Pa.C.S. § 3111, which provides an additional pathway to licensure that previously did not exist.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

Applicants for licensure by endorsement for occupational therapy will be required to comply with the proposed rulemaking. The Board estimates an average of less than 5 licensure by endorsement applications a year for these professions. Small businesses will only be impacted to the extent they voluntarily pay licensure fees and other costs for applicants.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The Commonwealth will benefit from licensure by endorsement under 63 Pa.C.S. § 3111. The purpose of 63 Pa.C.S. § 3111 is to make it easier for out-of-state applicants, including military spouses, who have an out-of-state professional or occupational license to work in Pennsylvania. 63 Pa.C.S. § 3111 also reduces barriers to employment, which will make Pennsylvania more competitive. 63 Pa.C.S. § 3111 and the Board's regulations will encourage skilled workers and their families to move to Pennsylvania, which will enhance the workforce, provide more talent for businesses, and help grow Pennsylvania's economy.

The citizens of the Commonwealth will also benefit from the enhanced workforce and growth in economy while still having assurance of a level of competence similar to existing licensees in this Commonwealth. The Board has selected experience to demonstrate competency. This method will assure competency consistent with the provisions of 63 Pa.C.S. § 3111. The provisional endorsement license provision also allows applicants who need to satisfy outstanding requirements, such as continuing education hours to demonstrate competency, to practice under a provisional license while the applicant satisfies the remaining requirements for licensure by endorsement.

The financial impact of the regulation falls primarily on the applicants and the Board. Individuals seeking licensure by endorsement will incur costs associated with qualifying for and obtaining a license. As noted above, an applicant applying for licensure by endorsement under 63 Pa.C.S. § 3111 would be required to pay the \$30 application fee, which covers the costs of processing the application. This application fee is the same for other applicants applying initial licensure authorized by § 41.17 of the act. For applicants from other countries and territories, if the other law, regulation or other rule is in a language other than English, § 42.9(a)(1)(ii) would require the applicant to have it professionally translated at the applicant's expense. The Board has been accepting and processing licensure by endorsement applications for over one year. To date, the Board has not received any licensure by endorsement applications from applicants from other countries and territories.

The positive impact for the applicants is that 63 Pa.C.S. § 3111 and the proposed regulation provide a new pathway to licensure that did not previously exist.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

As previously discussed, 63 Pa.C.S. § 3111 benefits this Commonwealth and its citizens and individual applicants wishing to obtain licensure. The costs associated with obtaining licensure are outweighed by the need of the Board to set fees to cover its costs for processing applications to maintain the fiscal integrity of the Board, and by the equity of assessing the costs of processing applications to the applicants.

themselves, as opposed to the existing licensee population bearing these costs through increased biennial renewal fees. The General Assembly contemplated and weighed the impact of imposing fees on applicants in 63 Pa.C.S. § 3111(a)(5) against the benefits of providing an additional pathway to licensure to individuals from other jurisdictions. While avoiding economic impact to applicants is always preferable, the General Assembly recognized that the Board's fees are necessary in order to pay for the costs associated with the filing of applications.

Regarding the cost of translating the law, regulation or other rule to English, this is a necessary part of the application process. If the Board is unable to understand the other jurisdiction's requirements, it will not be able to determine whether those requirements are substantially equivalent.

Regarding costs associated with demonstrating competency, the Board is authorized to select the methods of competency under section 63 Pa.C.S. § 3111(a)(2). Applicants who demonstrate competency through experience in the practice of occupational therapy for at least 2 of the 5 years immediately preceding the date of application in the jurisdiction that issued the license will incur no costs to demonstrate competency. Additionally, completing the mandatory child abuse recognition and reporting training will not have a negative fiscal impact if the applicant chooses a free training course. Requiring licensees to take this training will have a positive impact on the profession and for Pennsylvania citizens because occupational therapy professionals will be educated on recognizing child abuse and will also have specific training on how to report child abuse in this Commonwealth.

(19) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

An individual applying for licensure by endorsement under 63 Pa.C.S. § 3111 will incur some costs, including paying the \$30 application fee. Since the effective date of Act 41, the Board has not received any licensure by endorsement applications. During this period, the total costs incurred for application fees was \$0. Based upon this information, the Board anticipates less than 5 licensure by endorsement applications per year, which will result in approximate costs in the amount of \$0-150 annually.

(20) Provide a specific estimate of the costs and/or savings to the local governments associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulation would not result in costs or savings to local governments.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Board will incur increased operational costs to implement the licensure by endorsement. However, the costs incurred by the Board will be covered by the application fees paid by the applicants.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork,

including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

There are no anticipated legal, accounting or consulting procedures associated with this rulemaking. Like all other applicants under the Board, affected individuals will be required to submit an application for licensure accompanied by required documentation.

(22a) Are forms required for implementation of the regulation?

Yes, applicants are required to submit an online application.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here.** If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

The Bureau uses an online platform for the submission of applications for licensure through PALS, which also encompasses all applications, including those applying by endorsement under 63 Pa. C.S. § 3111. The application asks if the applicant is currently licensed in another state and the type of license for which they are applying. Applicants currently licensed in another jurisdiction, which is defined in the final rulemaking as another state, territory or country, are directed to submit a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements, and scope of practice in the jurisdiction that issued the license, translated into English if needed. Applicants are required to indicate whether they have been disciplined by the jurisdiction in which they are licensed or any other jurisdiction. Applicants with disciplinary history must upload appropriate documentation related to the discipline. Applicants must also provide a recent Criminal History Records Check (CHRC) from the state police or other state agency or other appropriate agency of a territory or country that is the official repository for criminal history record information for every state in which they have lived, worked, or completed professional training/studies for the past five (5) years. Based upon the above, applications are forwarded to Board counsel, and to the Board, if necessary, to determine eligibility under 63 Pa. C.S. § 3111. The Bureau is working towards creating a more detailed electronic application process specific to 63 Pa. C.S. § 3111 applications, which will decrease the need for manual review of applications. The Board attaches a paper application which will be the basis for developing the electronic licensure by endorsement application. (See Attachment A.)

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY 21-22	FY +1 22-23	FY +2 23-24	FY +3 24-25	FY +4 25-26	FY +5 26-27
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A



Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
COSTS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community	\$0-150	\$0-150	\$0-150	\$0-150	\$0-150	\$0-150
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Costs	\$0-150	\$0-150	\$0-150	\$0-150	\$0-150	\$0-150
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

Program	FY -3 2018-2019 (actual)	FY -2 2019-2020 (actual)	FY -1 2020-2021 (actual)	Current FY 2021-2022 (budgeted)
Occupational Therapy Board	\$449,730.83	\$ 465,777.81	\$423,566.29	\$480,000.00

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
  - (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
  - (c) A statement of probable effect on impacted small businesses.
  - (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.
- (a) This rulemaking will not have an adverse impact on small businesses unless small businesses voluntarily pay application fees or other costs relating to establishing competency. Because these fees are incurred by individuals applying for initial licensure, any business (small or otherwise) could avoid these costs by requiring employees to pay their own licensure costs.
- (b) This rulemaking will not impose additional reporting, recordkeeping or other administrative costs on small businesses.
- (c) The probable effect on impacted small businesses would be positive because 63 Pa.C.S. § 3111 and the Board's regulations will encourage skilled workers and their families to move to

Pennsylvania, which will enhance the workforce, provide more talent for businesses, and help grow Pennsylvania's economy.

- (d) The Board could discern no less costly or less intrusive alternative methods to effectuate the purpose of 63 Pa.C.S. § 3111 that would be consistent with the Board's mandate to produce enough revenue to cover its costs of operations and to administer the act in the public interest.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

No special provisions have been developed for any affected groups or persons.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternative regulatory provisions were considered and rejected. The Board believes this proposal represents the least burdensome acceptable alternative.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
  - b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
  - c) The consolidation or simplification of compliance or reporting requirements for small businesses;
  - d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
  - e) The exemption of small businesses from all or any part of the requirements contained in the regulation.
- a) & b) The Board did not consider less stringent reporting requirements or deadlines for small businesses or for applicants that intend to work for small businesses. All applicants for licensure are treated equally.
- c) There are no compliance or reporting requirements that could be consolidated or simplified. The application process is the same whether a particular licensee is employed by a small business or a large business.
- d) The regulations do not contain design or operational standards that need to be altered for small businesses.

- e) To exclude any applicant from the requirements contained in the regulation based on the size of their employers would not be consistent with 63 Pa.C.S § 3111.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

No data, studies or references were used to justify the regulation.

(29) Include a schedule for review of the regulation including:

A. The length of the public comment period: 30 days.

B. The date or dates on which public meetings or hearings will be held:

No public hearings were scheduled or held. The Board discusses its regulatory proposals at regularly scheduled meetings. This rulemaking was discussed at public board meetings on September 5, 2019, December 5, 2019, March 10, 2020, and June 11, 2020.

C. The expected date of promulgation of the proposed regulation as a final-form regulation: Summer 2022.

D. The expected effective date of the final-form regulation: Upon publication as final.

E. The date by which compliance with the final-form regulation will be required: Upon publication as final.

F. The date by which required permits, licenses or other approvals must be obtained: N/A

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings. The Board will meet on the following dates during 2022: March 3, 2022, June 2, 2022, September 1, 2022, and December 8, 2022. More information can be found on the Board website <https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/OccupationalTherapy/>

# ATTACHMENT “A”

**State Board of Occupational Therapy Education and Licensure**  
**P.O. Box 2649**  
**Harrisburg, PA 17105-2649**

**Telephone:** (717) 783-1389

**Fax:** (717) 787-7769

**Website:**

Harrisburg, PA 17110

<https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/OccupationalTherapy>

E-Mail: ST-OCCUPATIONAL@PA.GOV

**Courier Address:**

2601 North Third Street

2601 N. 3rd Street

## **APPLICATION FOR LICENSURE BY ENDORSEMENT UNDER 63 PA.C.S. § 3111**

**PLEASE NOTE:** If a pending application is older than one year from the date submitted and the applicant wishes to continue the application process, the State Board of Occupational Therapy Education and Licensure P.O. Box 2649 (Board) shall require the applicant to submit a new application including the required fee.

In order to complete the application process, many of the supporting documents associated with the application cannot be more than six months from the date of issuance. All background check documents cannot be older than 180 days from the date of issuance.

### **1. REQUIREMENTS**

- A. Hold a current license, certificate, registration or permit to practice as an occupational therapist or occupational therapy assistant in good standing to practice as an occupational therapist or occupational therapy assistant in a jurisdiction whose standards are substantially equivalent to or exceed those of the Board.
- B. Demonstrates competency by one of the following:
  - Experience in the practice of occupational therapy by demonstrating, at a minimum, that the applicant has actively engaged in the practice of occupational therapy as an occupational therapist or occupational therapy assistant in the jurisdiction that issued the license, certificate, registration or permit for at least 2 of the last 5 years immediately preceding the filing of the application with the Board.
- C. Has not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certification, registration or permit to practice occupational therapy under the act (63 P.S. 1516(a) and/or 49 Pa. Code § 42.31) and has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit.
- D. Has paid the \$30 certification, licensure or registration fee.
- E. Provides a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license. The copy of the applicable law, regulation or other rule must include the enactment date. If the applicable law, regulation or other rule is in a language other than English, at the applicant's expense, the applicable law, regulation or other rule shall be translated by a professional translation service and verified to be complete and accurate.

### **2. APPLICATION CHECKLIST**

**Persons licensed in other jurisdictions who possess a current license, license, certificate or permit in good standing:**

- ☐ Complete pages 1, 2 and 3 of the application.

*If any documentation submitted in connection with this application will be received in a name other than the name under which you are applying, you must submit a copy of the legal document(s) indicating the name change (i.e., marriage certificate, divorce decree which indicates the retaking of your maiden name; legal document indicating the retaking of a maiden name, or court order).*

- ☐ \$30 Application Fee – Check or money order made payable to the Commonwealth of Pennsylvania. Fees are not refundable or transferable. If you do not receive the Board's approval to sit for the examination within one year from the date your application is received, you will be required to submit another application fee. A processing fee of \$20.00 will be charged for any check or money order returned unpaid by your bank, regardless of the reason for non-payment.
- ☐ Have the out-of-state licensing authorities in which you hold or have held a license to practice as an occupational therapist or occupational therapy assistant submit a letter of good standing directly to the Board with a state seal affixed to the letter.

- ☐ A Criminal Background Check from the state in which you reside must be submitted. The criminal background check must be completed within 180 days of submission of this application to the Board. Pennsylvania background checks may be obtained at <https://epatch.state.pa.us> or from the Pennsylvania State Police Central Repository, 1800 Elmerton Ave., Harrisburg, PA 17110-9758, (717) 783-5593.  
(If you reside outside of Pennsylvania, you must contact the State Police from your jurisdiction.)
- ☐ The Bureau of Professional and Occupational Affairs (BPOA), in conjunction with the Department of Human Services (DHS), is providing notice to all health-related licensees and funeral directors that are considered "mandatory reporters" under section 6311 of the Child Protective Services Law (CPSL) (23 P.S. § 6311), as amended, that EFFECTIVE JANUARY 1, 2015, all persons applying for issuance of an initial license shall be required to complete 3 hours of DHS-approved training in child abuse recognition and reporting requirements as a condition of licensure. Please review the Board website for further information on approved CE providers. Once you have completed a course, the approved provider will electronically submit your name, date of attendance, etc., to the Board. Child Abuse Continuing Education Providers Information can be found here: <https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/Pages/Act-31.aspx>
- ☐ Provide a Self-Query from the National Practitioner Data Bank completed within 180 days of submission of this application to the Board. A Self-Query can be requested online at [www.npdp.hrsa.gov](http://www.npdp.hrsa.gov). When you receive the "Self-Query Response" from the National Practitioner Data Bank, forward it to the Board office. (Verify that "Self-Query Response" is sent to the Board and not a discrepancy notice.)
- ☐ For Occupational Therapists only, provide proof of professional liability insurance coverage through self-insurance, personally purchased insurance or insurance provided by your employer for the minimum amount of \$1,000,000.00 per occurrence or claims made. This proof of insurance/certificate must include your name and indicate that you are covered under this policy while performing occupational therapy services in the Commonwealth of Pennsylvania.

### 3. INFORMATION

- A. Any change in disciplinary status between the date of submission of the application and the date of passing the examination must be reported to the Board in writing.

State Board of Occupational Therapy Education and Licensure

**Mailing Address:**

P.O. Box 2649  
Harrisburg, PA 17105-2649  
Telephone: (717) 783-1389  
E-Mail: [ST-OCCUPATIONAL@PA.GOV](mailto:ST-OCCUPATIONAL@PA.GOV)

**Courier Address (if using a mailing service that requires a street address):**

2601 North Third Street  
Harrisburg, PA 17110  
Fax: (717) 705-5540

**APPLICATION FOR LICENSURE BY ENDORSEMENT UNDER 63 PA.C.S. § 3111**

**INITIAL APPLICATION FEE:** \$30 PAYABLE TO THE COMMONWEALTH OF PENNSYLVANIA. FEES ARE NOT REFUNDABLE OR TRANSFERABLE. IF YOU DO NOT RECEIVE THE BOARD'S APPROVAL TO SIT FOR THE EXAMINATION WITHIN ONE YEAR FROM THE DATE YOUR APPLICATION IS RECEIVED, YOU WILL BE REQUIRED TO SUBMIT ANOTHER APPLICATION FEE. A PROCESSING FEE OF \$20.00 WILL BE CHARGED FOR ANY CHECK OR MONEY ORDER RETURNED UNPAID BY YOUR BANK, REGARDLESS OF THE REASON FOR NON-PAYMENT.

1. Name \_\_\_\_\_  
(Last) (First) (Middle)

2. Will any documentation submitted in connection with this application be received in a name other than the name under which you are applying? YES ☐ NO ☐

If yes, please provide the other name or names: \_\_\_\_\_

3. Address \_\_\_\_\_  
(Street)

(City) (State) (Zip Code)

*The address you provide is the address that will be associated with this application to which all correspondence will be mailed. Please note that licenses are **not** forwardable.*

4. Telephone \_\_\_\_\_ Fax \_\_\_\_\_

5. E-Mail Address \_\_\_\_\_

6. Date of Birth \_\_\_\_\_

Social Security Number: \_\_\_\_\_

7. Select the license for which you are applying:

☐ Occupational Therapist

☐ Occupational Therapy Assistant

8. Competency Requirement

Experience:

Have you actively engaged in the practice of occupational therapy as an ☐ Occupational Therapist ☐ Occupational Therapy Assistant ☐ profession/occupation in the jurisdiction that issued the license, certificate, registration or permit for at least 2 of the last 5 years immediately preceding the filing of this application?

Provide a curriculum vitae demonstrating this experience.

9. Name state where initial license to practice as an occupational therapist or occupational therapy assistant was issued.

Date initial license was issued \_\_\_\_\_.

List any other state, territory or country where you hold or have held a license/certificate to practice as an occupational therapist or occupational therapy assistant.

Have the licensing authority listed above submit a letter of good standing (verification of licensure) directly to the Board with state seal affixed to the letter. Provide a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license.

		YES	NO
10.	<p>Do you hold, or have you ever held, a license, certificate, permit, registration or other authorization to practice any other profession in any state or jurisdiction?</p> <p>If you answered YES to the above question, please provide the profession and state or jurisdiction. Please do not abbreviate the profession.</p> <p>_____</p> <p>_____</p> <p>The Board must receive verification of any license, certificate, permit, registration or other authorization to practice any other profession directly from the state or jurisdiction. <i>PLEASE NOTE: The Board does NOT need to receive verification for licenses issued by one of the licensing boards within the Pennsylvania Bureau of Professional and Occupational Affairs.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>If you answer YES to any of the following questions, provide complete details as well as copies of relevant documents to the Board office.</b></p>		YES	NO
11.	Have you had disciplinary action taken against a professional or occupational license, certificate, permit, registration or other authorization to practice a profession or occupation issued to you in any state or jurisdiction or have you agreed to voluntary surrender in lieu of discipline?	<input type="checkbox"/>	<input type="checkbox"/>
12.	Do you currently have any disciplinary charges pending against your professional or occupational license, certificate, permit or registration in any state or jurisdiction?	<input type="checkbox"/>	<input type="checkbox"/>
13.	Have you withdrawn an application for a professional or occupational license, certificate, permit or registration, had an application denied or refused, or for disciplinary reasons agreed not to apply or reapply for a professional or occupational license, certificate, permit or registration in any state or jurisdiction?	<input type="checkbox"/>	<input type="checkbox"/>
14.	Do you currently have any criminal charges pending and unresolved in any state or jurisdiction?	<input type="checkbox"/>	<input type="checkbox"/>
15.	Do you currently engage in or have you ever engaged in the intemperate or habitual use or abuse of alcohol or narcotics, hallucinogenics or other drugs or substances that may impair judgment or coordination?	<input type="checkbox"/>	<input type="checkbox"/>
16.	Have you ever had provider privileges denied, revoked, suspended or restricted by a Medical Assistance agency, Medicare, third party payor or another authority?	<input type="checkbox"/>	<input type="checkbox"/>
17.	Have you ever had practice privileges denied, revoked, suspended or restricted by a hospital or any health care facility?	<input type="checkbox"/>	<input type="checkbox"/>
18.	Have you ever been charged by a hospital, university, or research facility with violating research protocols, falsifying research, or engaging in other research misconduct?	<input type="checkbox"/>	<input type="checkbox"/>



**NOTICE:** Disclosing your Social Security Number on this application is mandatory in order for the State Boards to comply with the requirements of the Federal Social Security Act pertaining to Child Support Enforcement, as implemented in the Commonwealth of Pennsylvania at 23 Pa.C.S. § 4304.1(a). At the request of the Department of Human Services (DHS), the licensing boards must provide to DHS information prescribed by DHS about the licensee, including the social security number. In addition, Social Security Numbers are required in order for the Board to comply with the reporting requirements of the U.S. Department of Health and Human Services, National Practitioner Data Bank.

**Applicant's Statement:**

I verify that this application is in the original format as supplied by the Department of State and has not been altered or otherwise modified in any way. I am aware of the criminal penalties for tampering with public records or information under 18 Pa.C.S. § 4911.

I verify that the statements in this application are true and correct to the best of my knowledge, information and belief. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) and may result in the suspension, revocation or denial of my license, certificate, permit or registration.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

CDL-1

**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU**

**(Pursuant to Commonwealth Documents Law)**

**RECEIVED**

**JAN 26 2022**

**Independent Regulatory  
Review Commission**

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p><b>Amy M. Elliott</b> BY: <u>Elliott</u> (DEPUTY ATTORNEY GENERAL)</p> <p><u>1/11/22</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p><b>State Board of Occupational Therapy Education and Licensure</b></p> <p>_____ (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>16A-6713</u></p> <p>DATE OF ADOPTION: _____</p> <p><u>Kerri L. Hample</u> BY: _____</p> <p>Kerri L. Hample, OTD, OTR/L</p> <p>TITLE <u>Chairperson</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u>[Signature]</u> (Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><u>December 13, 2021</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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**NOTICE OF PROPOSED RULEMAKING**

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF OCCUPATIONAL THERAPY  
EDUCATION AND LICENSURE**

**TITLE 49 PA CODE  
CHAPTER 42  
§§ 42.1, 42.9-42.10**

**LICENSURE BY ENDORSEMENT**

The State Board of Occupational Therapy Education and Licensure (Board) proposes to amend Title 49 Pennsylvania Code, Chapter 42, by amending Section 42.1 and adding section 42.9 (relating to licensure by endorsement) and section 42.10 (relating to provisional endorsement license) to read as set forth in Annex A.

#### *Effective Date*

The amendments will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

#### *Statutory Authority*

The provisions of 63 Pa.C.S. § 3111 (relating to licensure by endorsement) require licensing boards and commissions to issue a license, certificate, registration or permit to an applicant to allow practice in this Commonwealth, provided the applicant meets the following criteria: holds a current license, certificate, registration or permit from another state, territory or country whose licensing requirements are substantially equivalent to or exceed the requirements in this Commonwealth; demonstrates competency; has not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice that profession or occupation in this Commonwealth, unless the board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; is in good standing and has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit, unless the board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; and the applicant pays fees, as established by regulation. Additionally, 63 Pa.C.S. § 3111 authorizes boards and commissions to issue a provisional license, certificate, registration, or permit while an applicant is satisfying remaining requirements for licensure by endorsement, for which the Board must set by regulation the terms of expiration. Finally, section 1505(b) of the Occupational Therapy Practice Act (P.L. 502, No.140) (63 P.S. §§ 1505(b)) (act) provides that the Board may adopt rules and regulations consistent with the law as necessary for the performance of its duties and the proper administration of the act.

The act of July 1, 2020 (P.L. 575, No. 53) added 63 Pa.C.S. § 3111 as part of the consolidation of the act of July 2, 1993 (P.L. 345, No. 48) (Act 48) into Title 63 Pa.C.S. Chapter 31 (relating to powers and duties). The text of 63 Pa.C.S. § 3111 was originally added to Act 48 by the act of July 1, 2019 (P.L. 292, No. 41).

#### *Background and Need for the Amendments*

This proposed rulemaking is needed to effectuate 63 Pa.C.S. § 3111, which requires the Board to issue a license to applicants who meet the requirements for licensure by endorsement, as set forth in 63 Pa.C.S. § 3111. Under 63 Pa.C.S. § 3111(a)(1), the Board must determine whether the other jurisdiction's standards for licensure are substantially equivalent to or exceed those established by the Board. Additionally, 63 Pa.C.S. § 3111(a)(2) requires the Board to determine the methods of competency, including completion of continuing education or experience in the profession or occupation for at least 2 of the 5 years immediately preceding the filing of the

application. Under 63 Pa.C.S. § 3111(b)(2), the Board must establish, by regulation, the expiration of a provisional endorsement license. This proposed rulemaking sets forth the criteria for eligibility for licensure by endorsement, including the specific methods required for an applicant to demonstrate competency as well as requirements for granting a provisional endorsement license.

*Description of the Proposed Amendments*

The Board proposes to amend § 42.1 (relating to definitions) by adding a definition for the term “jurisdiction” consistent with 63 Pa.C.S. § 3111.

Proposed § 42.9 (relating to licensure by endorsement) requires an applicant to provide proof that the applicant meets eight criteria required for licensure by endorsement. The first criterion, as set forth in proposed subsection (a)(1), requires an applicant to provide proof of a current license, certification, registration or permit in good standing to practice as an occupational therapist or occupational therapy assistant in another jurisdiction whose standards are substantially equivalent to or exceed standards under section 8 of the act, §§ 42.11 (relating to licensure examination) and 42.13(a) (relating to application for licensure). Proposed subsection (a)(1) further requires an applicant to submit a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license, certificate, registration or permit. This proposed rulemaking would also require that the copy of the applicable law, regulation or other rule include the enactment date. Additionally, because 63 Pa.C.S. § 3111 is applicable to territories and other countries that use languages other than English, where the applicable law, regulation or other rule is in a language other than English, the Board would require, at the applicant’s expense, translation of the applicable law, regulation or other rule by a professional translation service.

Proposed subsection (a)(2) requires demonstration of competency. Under this provision, an applicant must provide proof of competency by demonstrating experience in the practice of occupational therapy. To demonstrate competency by experience, an applicant must demonstrate active engagement in the practice of occupational therapy as an occupational therapist or occupational therapy assistant for at least 2 of the 5 years immediately preceding the filing of the application in the jurisdiction that issued the license, certificate, registration or permit.

Proposed subsections (a)(3) and (4) incorporate the statutory prohibitions in 63 Pa.C.S. § 3111 pertaining to conduct that would constitute grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice the profession or occupation, and prior discipline by the jurisdiction that issued the license.

Proposed subsection (a)(5) provides for payment of an application fee, as required under 63 Pa.C.S. § 3111(a)(5). The applicable fee for licensure by endorsement under 63 Pa.C.S. § 3111 is the application for license fee as set forth under § 41.17 (relating to fees) of the Board’s current fee schedule (\$30).

Proposed subsection (a)(6) requires that applicants meet the professional liability requirements under section 8 of the act and § 42.13(b) (relating to application for licensure).

Next, proposed subsection (a)(7) requires applicants to apply for licensure in accordance with the act and Chapter 42 in the manner and format prescribed by the Board.

Finally, proposed subsection (a)(8) requires completion of 3 hours of training in child abuse recognition and reporting, which is mandated continuing education under the Child Protective Services Law (CPSL) (23 Pa.C.S. § 6383(b)(3)(i)) (relating to education and training).

In proposed § 42.9(b), the Board may require a personal interview or additional information to assist the Board in determining eligibility and competency. When a personal interview is necessary, the applicant may request the interview to be conducted by video teleconference for good cause shown.

Consistent with 63 Pa.C.S. § 3111(a)(3) and (4), proposed § 42.9(c) authorizes the Board, in its discretion, to determine that an act prohibited under section 16(a) of the act (63 P.S. § 1516(a)) or disciplinary action by a jurisdiction are not impediments to the granting of a license, certification, registration or a permit by endorsement under 63 Pa.C.S. § 3111.

Consistent with 63 Pa.C.S. § 3111(b), proposed § 42.10(a) provides that the Board, in its discretion, may issue a provisional endorsement license while an applicant is satisfying remaining requirements under 63 Pa.C.S. § 3111 and proposed § 42.9. Proposed § 42.10(b) sets the expiration of a provisional endorsement license at 1 year, unless the Board determines that an expiration date of less than 1 year is appropriate. Additionally, upon a written request, the Board may extend the term of the license upon a showing of good cause. Proposed § 42.10(c) sets forth reasons for which a provisional endorsement license will be terminated by the Board, including when the Board denies or grants a license, or the provisional endorsement licensee fails to comply with the terms of a provisional endorsement license. Finally, proposed § 42.10(d) clarifies that while an individual may reapply for a license by endorsement under proposed § 42.9, the Board will not issue a subsequent provisional endorsement license to an applicant who previously held a provisional endorsement license that expired or was terminated.

#### *Fiscal Impact and Paperwork Requirements*

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The costs to the Board related to processing applications for licensure by endorsement will be recouped through fees paid by applicants. Applicants who apply for licensure by endorsement will be impacted by the \$30 application for licensure fee in § 41.17. All applicants must complete child abuse recognition and reporting training, as required by section 6383(b)(3)(i) of the CPSL. There are free in-person and online child abuse recognition and reporting training options available; therefore, the Board does not anticipate a negative fiscal impact for this statutorily mandated training.

#### *Sunset Date*

The Board continuously monitors the cost effectiveness of the Board's regulations. Therefore, no sunset date has been assigned.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 26, 2022, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

*Public Comment*

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Board Counsel, at P.O. Box 69523, Harrisburg, PA 17106-9523 or by e-mail at [RA-STRegulatoryCounsel@pa.gov](mailto:RA-STRegulatoryCounsel@pa.gov) within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference 16A-6713 (Licensure by Endorsement), when submitting comments.

Kerri Hample, OTD, OTR/L  
Chairperson

**ANNEX A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 42. STATE BOARD OF OCCUPATIONAL THERAPY**

**EDUCATION AND LICENSURE**

**GENERAL PROVISIONS**

**§ 42.1. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

Equivalent program--A masters or certificate program in occupational therapy approved by the Board.

Jurisdiction—a state, territory or country.

Licensee--An individual who has been licensed under the act as an occupational therapist or an occupational therapy assistant.

\* \* \* \* \*

**LICENSURE BY ENDORSEMENT**

**§ 42.9. Licensure by endorsement**

(a) Requirements for issuance. To be issued a license by endorsement under 63 Pa.C.S. § 3111

(relating to licensure by endorsement), an applicant must satisfy all of the following conditions:

(1) Has a current license or certification in good standing to practice as an occupational therapist or an occupational therapy assistant in another jurisdiction whose standards are substantially equivalent to or exceed those established under section 8 of the act (63 P.S. § 1508) and §§ 42.11 and 42.13 (a)(relating to licensure examination and application for licensure).

(i) An applicant must submit a copy of the current applicable law, regulation or other rule governing licensure or certification requirements and scope of practice in the jurisdiction that issued the license, certificate, registration or permit.

(ii) If the applicable law, regulation or other rule is in a language other than English, at the applicant's expense, the applicable law, regulation or other rule shall be translated by a professional translation service and verified to be complete and accurate.

(iii) The copy of the applicable law, regulation or other rule must include the enactment date.

(2) Demonstrates competency by the following:

(i) Experience in the practice of occupational therapy by demonstrating, at a minimum, that the applicant has actively engaged in the licensed practice as an occupational therapist or occupational therapy assistant in the jurisdiction that issued the license, certificate, registration or permit for at least 2 of the 5 years immediately preceding the filing of the application with the Board.



(3) Has not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certification, registration or permit to practice as an occupational therapist or occupational therapy assistant under section 16(a) of the act (63 P.S. § 1516(a)) and § 42.13.

(4) Has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit.

(5) Has paid the application for licensure fee as required by § 41.17 (relating to fees).

(6) Satisfies the professional liability requirements as required under section 8 of the act (63 P.S. 1508 (5)) and § 42.13(b).

(7) Has applied for licensure in accordance with this chapter in the manner and format prescribed by the Board.

(8) Completes 3 hours of training in child abuse recognition and reporting from a provider approved by the Department of Human Services as required under 23 Pa.C.S. § 6383(b)(3)(i) (relating to education and training).

(b) Interview and additional information. An applicant may be required to appear before the Board for a personal interview and may be required to submit additional information, including supporting documentation relating to competency and experience. The applicant may request an interview by video teleconference for good cause shown.

(c) Prohibited acts. Notwithstanding subsections (a)(3) and (4), the Board may, in its discretion, determine that an act prohibited under section 16(a) of the act or disciplinary action by a jurisdiction is not an impediment to licensure under 63 Pa.C.S. § 3111.

**§ 42.10. Provisional Endorsement License.**

(a) *Provisional endorsement license.* The Board may, in its discretion, issue a provisional endorsement license to an applicant while the applicant is satisfying remaining requirements for licensure by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement) and § 42.9.

(b) *Expiration of a provisional endorsement license.*

(1) An individual holding a provisional endorsement license may practice for up to 1 year after issuance of the provisional endorsement license. The Board, in its discretion, may determine that an expiration date of less than 1 year is appropriate.

(2) Upon a written request and a showing of good cause, the Board may grant an extension of no longer than 1 year from the expiration date of the provisional endorsement license.

(c) *Termination of a provisional endorsement license.* A provisional endorsement license terminates if any of the following occurs:

(1) When the Board completes its assessment of the applicant and either denies or grants the license.

(2) When the holder of the provisional license fails to comply with the terms of the provisional endorsement license.

(d) *Reapplication.* An individual may reapply for licensure by endorsement under § 42.9 after expiration or termination of a provisional endorsement license; however, the individual may not be issued a subsequent provisional endorsement license.



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF OCCUPATIONAL THERAPY EDUCATION AND  
LICENSURE  
Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-1389

January 26, 2022

The Honorable George D. Bedwick, Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harrisburg 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation  
State Board of Occupational Therapy Education and Licensure  
16A-6713: Licensure by Endorsement

Dear Chairman Bedwick:

Enclosed is a copy of a proposed rulemaking package of the State Board of Occupational Therapy Education and Licensure pertaining to Licensure by Endorsement.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,

A handwritten signature in black ink that reads "Kerri L. Hample".

Kerri L. Hample, OTD, OTR/L, Chairperson  
State Board of Occupational Therapy Education and  
Licensure

KLH/nlv:bmz  
Enclosure

cc: Arion R. Claggett, Acting Commissioner of Professional and Occupational Affairs  
Pamela Iovino, Deputy Secretary of Regulatory Programs  
Marc Farrell, Deputy Director of Policy, Department of State  
Cynthia Montgomery, Deputy Chief Counsel, Department of State  
Jacqueline A. Wolfgang, Senior Regulatory Counsel, Department of State  
Nicole L. VanOrder, Board Counsel, State Board of Occupational Therapy Education and  
Licensure  
State Board of Occupational Therapy Education and Licensure

**From:** Blauch, Tammy  
**To:** Zappasodi, Brittany; Smeltz, Jennifer  
**Subject:** RE: DELIVERY: REGULATIONS 16A-6713 & 16A-4956  
**Date:** Wednesday, January 26, 2022 9:17:56 AM

---

Good morning Brittany,  
Yes, we have received your regulation email.  
Have a great day.

*Tammy Blauch*  
Executive Secretary  
Office of Senator Robert M. Tomlinson  
Room 286 Main Capitol Building  
Harrisburg, PA 17120  
(717)-787-5072  
Fax: (717)772-2991  
[tblauch@pasen.gov](mailto:tblauch@pasen.gov)

**RECEIVED**

**JAN 26 2022**

**Independent Regulatory  
Review Commission**

---

**From:** Zappasodi, Brittany <bzappasodi@pa.gov>  
**Sent:** Wednesday, January 26, 2022 8:33 AM  
**To:** Blauch, Tammy <tblauch@pasen.gov>; Smeltz, Jennifer <jmsmeltz@pasen.gov>  
**Subject:** DELIVERY: REGULATIONS 16A-6713 & 16A-4956  
**Importance:** High

© CAUTION : External Email ©

**Please provide written (email) confirmation of receipt of the delivery of the attached rulemakings.**

Please be advised that the State Board of Occupational Therapy Education and Licensure and the State Board of Medicine are delivering the following proposed rulemakings:

- 16A-6713: Licensure by Endorsement
- 16A-4956: Acupuncturists and Practitioners of Oriental Medicine

**Brittany Zappasodi** | Legal Assistant II  
Office of Chief Counsel | Department of State  
Governor's Office of General Counsel  
P.O. Box 69523 | Harrisburg, PA 17106-9523  
Phone 717.783.7200 | Fax 717.787.0251  
[bzappasodi@pa.gov](mailto:bzappasodi@pa.gov) | [www.dos.pa.gov](http://www.dos.pa.gov)  
**PRIVILEGED AND CONFIDENTIAL COMMUNICATION**

*The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any use of this information other than by the intended recipient is prohibited. If you receive this message in error, please send a reply e-mail to the sender and delete the material from any and all computers. Unintended transmissions shall not constitute waiver of the attorney-client or any other privilege.*

**From:** [Livingston, Jerry](#)  
**To:** [Zappasodi, Brittany](#)  
**Subject:** RE: DELIVERY: REGULATIONS 16A-6713 & 16A-4956  
**Date:** Wednesday, January 26, 2022 9:38:17 AM

---

Thank you

**From:** Zappasodi, Brittany <bzappasodi@pa.gov>  
**Sent:** Wednesday, January 26, 2022 8:32 AM  
**To:** Livingston, Jerry <Jerry.Livingston@pasenate.com>; Vazquez, Enid  
<Enid.Vazquez@pasenate.com>  
**Subject:** DELIVERY: REGULATIONS 16A-6713 & 16A-4956  
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Please be advised that the State Board of Occupational Therapy Education and Licensure and the State Board of Medicine are delivering the following proposed rulemakings:

- 16A-6713: Licensure by Endorsement
- 16A-4956: Acupuncturists and Practitioners of Oriental Medicine

**Brittany Zappasodi** | Legal Assistant II  
Office of Chief Counsel | Department of State  
Governor's Office of General Counsel  
P.O. Box 69523 | Harrisburg, PA 17106-9523  
Phone 717.783.7200 | Fax 717.787.0251  
[bzappasodi@pa.gov](mailto:bzappasodi@pa.gov) | [www.dos.pa.gov](http://www.dos.pa.gov)

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**From:** Emily Hackman  
**To:** Zappasodi, Brittany  
**Cc:** Nicole Sidle  
**Subject:** RE: DELIVERY: REGULATIONS 16A-6713 & 16A-4956  
**Date:** Wednesday, January 26, 2022 9:17:29 AM

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EMILY EPLER HACKMAN | ADMINISTRATIVE ASSISTANT II

**David S. Hickernell, Majority Chairman**

Professional Licensure Committee

98<sup>th</sup> Legislative District

Room 43, East Wing

Harrisburg, PA 17120-2098

717-783-2076

**Representative Mindy Fee**

37<sup>th</sup> Legislative District

Room 47, East Wing

Harrisburg, PA 17120-2037

717-772-5290

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**From:** Zappasodi, Brittany <bzappasodi@pa.gov>  
**Sent:** Wednesday, January 26, 2022 8:32 AM  
**To:** Nicole Sidle <Nsidle@pahousegop.com>; Emily Hackman <Eepler@pahousegop.com>  
**Subject:** DELIVERY: REGULATIONS 16A-6713 & 16A-4956  
**Importance:** High

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**From:** [Wilson, Marlene](#)  
**To:** [Zappasodi, Brittany](#)  
**Subject:** RE: DELIVERY: REGULATIONS 16A-6713 & 16A-4956 (Wheatley)  
**Date:** Wednesday, January 26, 2022 8:55:18 AM  
**Attachments:** [image001.png](#)

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Received. Thank you.



*Marlene Wilson, Esquire  
Senior Committee Executive Director  
House Professional Licensure Committee  
Rep. Jake Wheatley, Jr., Chairman  
Phone: (717) 787-4032  
Internal Phone: 6253  
Email - [mwilson@pahouse.net](mailto:mwilson@pahouse.net)*

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**From:** Zappasodi, Brittany <[bzappasodi@pa.gov](mailto:bzappasodi@pa.gov)>  
**Sent:** Wednesday, January 26, 2022 8:31 AM  
**To:** Wilson, Marlene <[MWilson@pahouse.net](mailto:MWilson@pahouse.net)>  
**Subject:** DELIVERY: REGULATIONS 16A-6713 & 16A-4956 (Wheatley)  
**Importance:** High

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**From:** Bulletin  
**To:** Zappasodi, Brittany  
**Cc:** Code&Bulletin  
**Subject:** [External] RE: DELIVERY: REGULATIONS 16A-6713 & 16A-4956  
**Date:** Wednesday, January 26, 2022 8:48:02 AM

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Good morning Brittany,

Thank you for sending these proposed rulemakings. Someone from our office will contact you regarding publication in the Pennsylvania Bulletin.

Take care,

**Ernest L. Engvall | Legal Assistant**

[eengvall@palrb.us](mailto:eengvall@palrb.us) | 717.783.1531

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**From:** Zappasodi, Brittany <[bzappasodi@pa.gov](mailto:bzappasodi@pa.gov)>  
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**To:** Bulletin <[bulletin@palrb.us](mailto:bulletin@palrb.us)>  
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