

Governor's Office of Management and Budget

Alexis Sturm

Director



IL Regulatory Sunset Act Review of The Illinois Occupational Therapy Practice Act

April 14, 2023

**To the Honorable JB Pritzker
Governor of Illinois**

Governor Pritzker:

The Governor's Office of Management and Budget (GOMB), in compliance with the requirements set forth in the Illinois Regulatory Sunset Act (5 ILCS 80), has conducted a review of the Illinois Occupational Therapy Practice Act (225 ILCS 75), which is scheduled to sunset on January 1, 2024. As a result of this review, GOMB makes the following recommendation:

The Illinois Occupational Therapy Practice Act (225 ILCS 75) should be continued with the following modifications to its existing statutory and administrative rule framework:

- Implementation of standard language allowing for electronic/paperless communication from IDFPR:
 - Requiring licensees to provide an email address of record with IDFPR (225 ILCS 7/52);
 - Allowing for notice of hearing to be served by mail or email, rather than registered or certified mail (225 ILCS 75/19.2); and
 - Updating a cross-reference to the Illinois Administrative Procedure Act regarding email to the email address of record (225 ILCS 75/20).
- Either repeal the requirement for Social Security Numbers on application or allow individuals without a Social Security Number to provide their individual taxpayer identification number when applying for licensure (225 ILCS 75/6.5);
- Either repeal the section providing for licensee rosters or amend the provision so that roster information, such as personal addresses, does not exceed the information available under a Freedom of Information Act request (225 ILCS 75/17);
- Allow for orders and certified copies to be prima facie proof that the Board and its members are qualified to act (225 ILCS 75/19.10); and
- Repeal the mandate stating that exhibits shall be certified without cost (225 ILCS 75/19.15).

GOMB's examination of this act was conducted considering the nine factors set out in Section 6 of the Illinois Regulatory Sunset Act. The following report details the criteria and data utilized to come to the above recommendation.

Very sincerely and respectfully,

Alexis Sturm
Director
Governor's Office of Management and Budget

Criteria (1) “The extent to which the agency or program has permitted qualified applicants to serve the public.”

As of June 2022, there were 7,607 licensed occupational therapists in Illinois.

Table 1: Total Number of Licensees FY2018 – FY2022

License Type	2017	2018	2019	2020	2021	2022
Occupational Therapist	6,879	6,847	7,395	7,272	7,817	7,607
Certified Occupational Therapy Assistant	2,978	2,922	3,161	3,061	3,234	2,985
Occupational Therapy Continuing Education Sponsor	106	97	105	96	103	81

Occupational Therapists have the following licensure fee structure:

Table 2: Occupational Therapist Licensure Fee Structure

License Type	Fee Amount
Initial Application	
- Occupational Therapist	\$25
- Occupational Therapy Assistant	\$25
Renewal Fee	
- Occupational Therapist	\$20/year
- Occupational Therapy Assistant	\$10/year
Restoration after Lapse	\$50 fee, plus all lapsed renewal fees (not to exceed \$110)

Occupational therapists are required to complete a master’s or doctoral degree in an occupational therapy program to achieve licensure. Occupational therapy assistants are required to complete an associate degree. The Accreditation Council for Occupational Therapy Education (“ACOTE”) accredits occupational therapy programs. Illinois has six accredited schools with master’s programs: Chicago State University, Elmhurst College, Governors State University, University of Illinois at Chicago, North Central College, and Lewis University. Additionally, Illinois has three accredited doctoral programs: Midwestern University-Downers Grove, Rush University, and Southern Illinois University-Carbondale. Illinois also has nine accredited associate programs for occupational therapy assistants: Fox College, Illinois Central College – Peoria Campus, Lewis & Clark College, Lincoln Land Community College, McHenry College, Parkland College, South Suburban College of Cook County, Wright College, and the Southern Illinois Collegiate Common Market, which offers its program at John A. Logan College and Shawnee Community College.

All of Illinois’ occupational therapy master’s programs, and two of the doctoral programs, are in Chicago or the collar counties. One of the doctoral programs is in Southern Illinois. The associate programs are at community colleges located throughout the state.

Occupational therapists are required to pass a national examination administered by the National Board for Certification in Occupational Therapy (“NBCOT”) or another nationally recognized credentialing body approved by the Illinois Occupational Therapy Licensure Board. To sit for the exam, candidates must have a degree from an accredited educational program (225 ILCS 75/7). NBCOT provides both the certification examination for registered occupational therapists and for occupational therapy assistants. The examinations are offered continuously throughout the year. NBCOT certification exams are administered by Prometric testing centers worldwide. All 50 states plus the District of Columbia, Puerto Rico, and Guam require NBCOT initial certification and licensure for occupational therapists and occupational therapy assistants.

Education and examination requirements are largely uniform across all states and jurisdictions.

Criteria (2) “The extent to which the trade, business, profession, occupation, or industry being regulated is being administered in a nondiscriminatory manner both in terms of employment and rendering of services.”

The Illinois Department of Financial and Professional Regulation (“IDFPR”) does not collect information on the gender, race, or ethnicity of licensees.

Two academic studies have found discriminatory practices within the licensing process and the occupation. One study found female occupational therapists under the age of 30 had a higher rate of burnout due to experiences of personal discrimination in the workplace than did male occupational therapists or older female occupational therapists.¹ Another study found 19 states, not including Illinois, to be discriminatory to individuals living with disabilities in the occupational therapy licensure application and process.² However, this study found Illinois’ application to be fully permissible under the Americans with Disabilities Act, and Illinois received the highest accessibility score in 9 out of the 11 criteria measured by the Web Content Accessibility Guidelines.

Criteria (3) “The extent to which the regulatory agency or program has operated in the public interest, and the extent to which its operation has been impeded or enhanced by existing statutes, procedures, and practices of any other department of state government, and any other circumstances, including budgetary resources, and personnel matters.”

IDFPR is tasked with processing applications for licenses and renewal licenses for over 1.2 million professionals practicing in the State of Illinois. IDFPR has adopted internal policies, sought legislative and administrative rule changes, and developed enhanced licensing processes to maintain efficiency and efficacy. Implementation of online, paperless licensing is one example of such a policy that has proved to be successful. While some procedures, such as the disciplinary process for licensees, can be lengthy, this is done to ensure thoroughness and proper due process for complaints against regulated professionals.

Criteria (4) “The extent to which the agency running the program has recommended statutory changes to the General Assembly that would benefit the public as opposed to the persons it regulates.”

P.A. 100-872 (SB 2439 Sen. Bennet/Rep. Ammons) amended various acts, including the Illinois Occupational Therapy Practice Act, to remove provisions allowing or requiring licensing authorities to discipline professional licenses for defaulting on an educational loan provided by or guaranteed by the Illinois Student Assistance Commission. This proposal provided the public with greater access to accounting services by allowing licensees to continue to practice without being in violation of loan default which is not directly related to the practice of their profession.

P.A. 100-873 (SB 3395 Sen. Althoff/Rep. Demmer) created a more simplified licensure by endorsement process for physical therapists and occupational therapists who have been licensed in other states for at least 10 years. By allowing licensees from other states to achieve licensure more efficiently in Illinois, there may be an increase in the number of occupational therapists, resulting in greater access to occupational therapy services for Illinois consumers.

Criteria (5) “The extent to which the agency or program has required the persons it regulates to report to it concerning the impact of rules and decisions of the agency or the impact of the program on the public regarding improved service, economy of service, and availability of service.”

¹ <https://www.mdpi.com/1660-4601/18/6/2858>

² <https://core.ac.uk/download/pdf/235079122.pdf>

IDFPR promulgates rules through the process established by the Joint Committee on Administrative Rules (“JCAR”), the administrative body responsible for approving rule proposals by state agencies. Rules may be shared with the professional’s boards, associations, and industry prior to being filed. The rulemaking process includes a public comment period after which IDFPR responds to the comments received during that period. This process allows for input from industry and community stakeholders impacted by IDFPR proposed changes. IDFPR works with lawmakers, community stakeholders and members of industry to ensure that regulations effectively protect Illinois citizens.

Additionally, IDFPR works with lawmakers, community stakeholders, and members of industry to ensure that regulations effectively protect Illinois’ citizens. While this is not codified into statute, such informal approaches have been shown to strengthen the relationships between various stakeholders, including regulators, legislators, industry, and consumer advocates.³

Criteria (6) “The extent to which persons regulated by the agency or under the program have been required to assess the problems in their industry that affect the public.”

The Illinois Occupational Therapy Licensure Board is an advisory board within IDFPR composed of seven members appointed by the Secretary including: four licensed occupational therapists, two licensed occupational therapy assistants, and one public member. The board hears disciplinary matters and makes recommendations to the Secretary. The Secretary considers the recommendations of the board on questions of standards of professional conduct, discipline, and qualifications of candidates or licensees under this act. IDFPR may also solicit the advice and expertise of the board on matters relating to administration of the act.

Criteria (7) “The extent to which the agency or program has encouraged participation by the public in making its rules and decisions as opposed to participation solely by the persons it regulates and the extent to which such rules and decisions are consistent with statutory authority.”

IDFPR adheres to the guidelines and requirements established by JCAR and the Illinois General Assembly (“ILGA”) for approving rule proposals, legislative changes, and internal policies. Promulgated rules are consistent with agency acts and statutory changes. Decisions made by the agency are based on the Acts and rules and legislative intent. JCAR reviews rules to ensure that the agency does not exceed their rule-making authority granted to them by the General Assembly. Additionally, the Illinois Occupational Therapy Licensure Board adheres to the requirements established in the Illinois Open Meetings Act (5 ILCS 120) for all public meetings.

Criteria (8) “The efficiency with which formal public complaints filed with the regulatory agency or under the program concerning persons subject to regulation have been processed to completion, by the executive director of the regulatory agencies or programs, by the Attorney General and by any other applicable department of the State government.”

Complaints made against licensees of IDFPR’s Division of Professional Regulation may be filed via mail, email, or phone to DPR’s Complaint Intake Unit, in the Statewide Enforcement Section.

The Complaint Intake Unit receives complaints against licensees and unlicensed persons/entities from the public, other licensees, law enforcement agencies, other governmental agencies, and other sources. The division may also initiate its own complaint through the course of an investigation, audit, inspection, or other means.

³ https://documents.ncsl.org/wwwncsl/Labor/NCSL_DOL_Report_05_web_REVISED.pdf

After processing, a complaint is referred to the Investigations Unit and assigned to an investigator. An investigator may collect documents, interview witnesses, conduct inspections, and gather information to review the complaint for potential licensing law violations. Investigations may close a complaint for various reasons. Investigations may refer the case to the Prosecutions Unit for further review.

When a complaint is referred to the Prosecutions Unit, it is referred to as a “case.” Cases are assigned to a prosecuting attorney who may seek additional information and/or pursue non-disciplinary or disciplinary action. Disciplinary action includes revocation, suspension, probation, and reprimand of a license. Illinois law also allows for the imposition of disciplinary fines. Non-disciplinary action includes administrative fees, the completion of continuing education, and other similar activities.

Prosecutions may take a variety of steps, such as filing a formal pleading and/or conducting an informal settlement conference. The Division and the licensee may enter into a negotiated written agreement regarding the case. Alternatively, Prosecutions may close the case due to various reasons, such as insufficient evidence, the allegations are not a violation or are unfounded, or an expiration of the statute of limitations.

If needed, a formal hearing is held before an administrative law judge, where evidence may be submitted where and witnesses may testify. After the hearing, the administrative law judge submits a recommendation to a professional board or committee, if applicable. The board or committee then delivers its recommendation to the director of the Division of Professional Regulation. The director then issues a final administrative order. Following the director’s order, the licensee may appeal the decision in circuit court under the Illinois Administrative Review Act.

When applicable, the division works with outside entities such as state’s attorneys, the Illinois Attorney General, other states, and federal and state governmental agencies to pursue further action, such as criminal or civil action.

Criteria (9) “The extent to which changes are necessary in the enabling laws of the agency or program to adequately comply with the factors listed in this section.”

IDFPR recommends the sunset of the act be extended and that statutory language be modernized in order to implement more streamlined and efficient regulation of this profession. This will ensure safety and welfare of the general public and ease the burden of regulatory compliance by: (1) Updating the language to comport with recently updated acts; and (2) Removing outdated language (i.e., sections allowing for grandfathering if applied for licensure prior to the effective date of the act, roster language, etc.) that currently allows for confusion. The following changes include, but are not limited to:

- Implementation of standard language allowing for electronic/paperless communication from IDFPR:
 - Requiring licensees to provide an email address of record with IDFPR (225 ILCS 7/52);
 - Allowing for notice of hearing to be served by mail or email, rather than registered or certified mail (225 ILCS 75/19.2); and
 - Updating a cross-reference to the Illinois Administrative Procedure Act regarding email to the email address of record (225 ILCS 75/20).
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- Allow for orders and certified copies to be prima facie proof that the board and its members are qualified to act (225 ILCS 75/19.10); and
- Repeal of the mandate stating that exhibits shall be certified without cost (225 ILCS 75/19.15).

Conclusion:

The Illinois Occupational Therapy Practice Act governs the licensure of occupational therapy in the State of Illinois. Licensure for this profession is necessary to protect the public health and safety of the public by ensuring occupational therapists and occupational therapy assistants have the knowledge, experience, and competency to provide such services to individual members of the public. Practitioners work directly with individuals with mental health problems, disabilities, injuries, or impairments and provide therapeutic care to improve the individual's ability to perform activities of daily living. Occupational therapists will most often work with individuals who exhibit congenital disorders, sensory processing disorders, traumatic injuries to the brain or spinal cord, autism and other developmental disorders, mental or behavioral health problems, and other types of injuries impacting a person's ability to perform everyday tasks. Because of the unique vulnerabilities of the individuals seeking occupational therapy and the unique expertise needed to provide such therapy, licensure of practitioners is critical for the continued protection of the public.

It is recommended that the sunset of the act be extended, and that the statutory language be modernized to implement more streamlined and efficient regulation of this profession which will ensure safety and welfare of the public and ease the burden of regulatory compliance. IDFPF recommends and GOMB concurs that several revisions be made to the act to reduce unnecessary administrative mandates, provide for more efficient administration of the act, and allow for more equitable access to licensure for all qualified individuals.