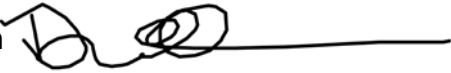




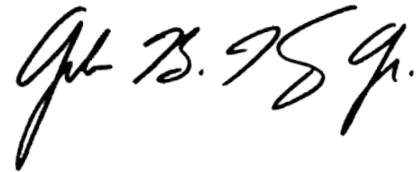
**TO:** The Professional Practice Committee

**FROM:** Douglas E. Lentivech 

**SUBJECT:** Proposed Amendments to the Regulations of the Commissioner of Education Relating to Continuing Competency in Occupational Therapy

**DATE:** September 9, 2013

**AUTHORIZATION(S):**



#### SUMMARY

#### Issue for Discussion

Should the Board of Regents amend section 76.10 of the Regulations of the Commissioner of Education relating to continuing competency requirements in occupational therapy?

#### Reason(s) for Consideration

Required by State Statute.

#### Proposed Handling

The proposed amendment will come before the Professional Practice Committee at its September 2013 meeting for discussion. It is anticipated that the proposed amendment will then be presented for action by the Board of Regents at its October 2013 meeting.

#### Procedural History

A Notice of Proposed Rule Making has been published in the State Register on August 14, 2013 for a 45-day period of public comment. Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents.

## **Background Information**

The proposed amendment to section 76.10(c)(2)(iii)(b) of the Regulations of the Commissioner of Education will explicitly recognize study in conjunction with the supervision of fieldwork education by occupational therapy students as independent study for the purpose of meeting the continuing competency requirements. It also increases the allowable credit for independent study from one sixth to one third of the 36 hour requirement. This amendment will provide credit for supervisors of occupational therapy students engaged in clinical education, based upon the time and effort spent in preparation for this supervision.

The proposed amendment to section 76.10(c)(2)(iii)(c)(2) of the Regulations of the Commissioner of Education will permit mentoring by any professional licensed under Article VIII of the Education Law for purposes of earning continuing competency credit. Current regulations only permit mentoring by another occupational therapist or occupational therapy assistant. This amendment will enhance mentoring opportunities for occupational therapists and occupational therapy assistants by permitting physicians, podiatrists and other licensed professionals to share their knowledge and expertise as mentors.

The proposed amendment to section 76.10(g)(2) of the Regulations of the Commissioner of Education will correct a technical error in the existing regulations by deleting extraneous words.

The proposed amendment to section 76.10(i)(2)(i) of the Regulations of the Commissioner of Education will add the American Occupational Therapy Association (AOTA) to those organizations whose approval of sponsors of continuing competency is recognized by the New York State Education Department. AOTA is the nationally recognized professional association in occupational therapy, and has a long history of review and approval of continuing competency sponsors.

The proposed addition of section 76.10(j)(3) of the Regulations of the Commissioner of Education will establish a fee for approval as a sponsor of continuing competency programs. The fee will provide the Department with sufficient resources to review sponsors of coursework or training offered to occupational therapists and occupational therapist assistants who need to fulfill the continuing competency requirement.

## **Timetable for Implementation**

It is anticipated that the proposed amendment will be presented for action by the Board of Regents at its October 2013 meeting. If adopted, the proposed amendment will become effective as a permanent rule on November 6, 2013.

## AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 212, 6504, 6507, and 7908 of the Education Law

1. Clause (b) of subparagraph (iii) of paragraph (2) of subdivision (c) of section 76.10 of the Regulations of the Commissioner of Education is amended, effective November 6, 2013, as follows:

(b) Independent study. Acceptable learning activities may include independent study as defined in paragraph [(a)](2) of subdivision (a) of this section. A licensee who completes independent study to meet the mandatory continuing competency requirement shall prepare a narrative account of what was learned and an overall written evaluation of the learning activity. Such licensee shall maintain a copy of the narrative account and written evaluation for six years after completion of this learning activity. Study in conjunction with supervision of fieldwork education conducted as part of a program of study as set forth in section 76.1 or 76.7 (b) of this Part or in conjunction with supervised experience conducted pursuant to section 76.2 of this Part may be considered independent study. A licensee who completes study in conjunction with such fieldwork supervision or supervised experience shall prepare and retain a narrative account of the preparation associated with the supervision in addition to the other requirements of this clause, and shall retain a letter of verification or certificate from the program that includes the dates of fieldwork. Three clock hours of independent study shall equal one continuing competency hour. No more than [one-sixth] one-third of the mandatory continuing competency requirement may be completed through independent study.

2. Subclause (2) of clause (c) of subparagraph (iii) of paragraph (2) of subdivision (c) of section 76.10 of the Regulations of the Commissioner of Education is amended, effective November 6, 2013, as follows:

(2) The mentor shall be licensed as an occupational therapist or occupational therapy assistant[, as applicable], or in another profession licensed pursuant to Title VIII of the Education Law and have at least five years of post-licensure experience in the subject of the mentoring. The mentee shall be licensed as an occupational therapist or occupational therapy assistant.

3. Paragraph (2) of subdivision (g) of section 76.10 of the Regulations of the Commissioner of Education is amended, effective November 6, 2013, as follows:

(2) In addition to meeting the recordkeeping requirement prescribed in paragraph (1) of this subdivision, each licensee who meets a portion of his or her continuing competency requirement through independent study, participation in a mentorship either as a mentor or as a mentee, or participation in a professional study group[, fieldwork supervision or volunteer supervision] shall meet the recordkeeping requirements prescribed in subparagraph (c)(2)(iii) of this section, applicable to that learning activity.

4. Subparagraph (i) of paragraph (2) of subdivision (i) of section 76.10 of the Regulations of the Commissioner of Education is amended, effective November 6, 2013, as follows:

(i) A sponsor of coursework or training that is approved by the American Occupational Therapy Association, the National Board for Certification in Occupational Therapy, [or] the New York State Occupational Therapy Association, [or] the International Association for Continuing Education and Training, or an equivalent organization determined by the department to have adequate standards for approving sponsors of continuing education for professionals regulated by II[t]itle VIII of the Education Law that include but are not limited to standards that are equivalent to the standards prescribed in clauses (3)(ii)(a), (b), (c), (d), and (e) of this subdivision; or

5. Subdivision (j) of section 76.10 of the Regulations of the Commissioner of Education is amended by adding a new paragraph (3) effective November 6, 2013, to read as follows:

(3) Organizations desiring to offer coursework or training based upon a department review, pursuant to paragraph (i) (3) of this section, shall submit an application fee of \$900.00 with its application for approval to become a sponsor of coursework or training offered to occupational therapists and/or occupational therapy assistants to meet the continuing competency requirement. Application for a three-year renewal of the permit shall be accompanied by a fee of \$900.00.