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State Capitol 700 Capital Avenue Frankfort KY 40601

502-564-8100

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MEMORANDUM

TO: Sara Boswell Janes, Staff Attorney III, Office of Legal Services, Department of Professional Licensing

FROM: Emily Caudill, Regulations Compiler

RE: Proposed New Regulation – 201 KAR 028:240

DATE: May 14, 2024

A copy of each administrative regulation listed above is enclosed for your files. These regulations are tentatively scheduled for review by the Administrative Regulation Review Subcommittee at its **AUGUST 2024** meeting. We will notify you of the date and time of this meeting once it has been scheduled.

Pursuant to KRS 13A.280, *if* comments are received during the public comment period, a Statement of Consideration or a one-month extension request for these regulations is due **by noon on August 15, 2024**. Please reference KRS 13A.270 and 13A.280 for other requirements relating to the public hearing and public comment period and Statements of Consideration.

If you have questions, please contact us at RegsCompiler@LRC.ky.gov or (502) 564-8100.

Enclosures

FILED WITH LHC
TIME: 4:15 pm
MAY 14 2024
Emily B Caudill
REGULATIONS COMPILER

1 GENERAL GOVERNMENT CABINET

2 Kentucky Board of Licensure for Occupational Therapy

3 (New Administrative Regulation)

4 201 KAR 28:240. Occupational Therapy Licensure Compact.

5 RELATES TO: KRS 319A.310

6 STATUTORY AUTHORITY: KRS 319A.070(1), (3) and KRS 319A.310

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 319A.310, Section 15.B.1. requires the

8 Board of Licensure for Occupational Therapy to review any rule adopted by the Occupational

9 Therapy Compact Commission pursuant to Section 10 of the Compact within sixty (60) days of

10 adoption for the purpose of filing the rule as an emergency administrative regulation pursuant to

11 KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation

12 pursuant to KRS Chapter 13A. This administrative regulation incorporates by reference the rules

13 adopted by the Occupational Therapy Compact Commission.

14 Section 1. The Board of Licensure for Occupational Therapy shall comply with all rules of the

15 Occupational Therapy Compact, which includes the Occupational Therapy Compact Rules as of

16 March 20, 2024.

17 Section 2. Incorporation by Reference.

18 (1) The following material is incorporated by reference: "The Occupational Therapy Compact

19 Rules", March 20, 2024, and as revised.

1 (a) Chapter 2. Rule on Definitions, adopted March 20, 2024; and

2 (b) Chapter 3. Data System Reporting Requirements, adopted March 20, 2024.

3 (2)

4 (a) This material may be inspected, copied, or obtained, subject to applicable copyright
5 law, at the Board of Licensure for Occupational Therapy, 500 Mero Street, 2 SC 32, Frankfort,
6 Kentucky 40602, Monday through Friday, 8 am to 4:30 p.m.; or

7 (b) This material may also be obtained on the Board of Board of Licensure for Occupational
8 Therapy Web site at <https://ot.ky.gov/>.

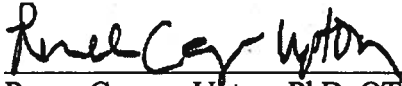
9 (3) This material may also be obtained at:

10 (a) The Occupational Therapy Compact Commission, 201 Park Washington Court, Falls
11 Church, Virginia 22046;

12 (b) <https://otcompact.org/ot-compact-commission/governance-documents/>.

201 KAR 28:240

APPROVED: May 1, 2024

A handwritten signature in black ink, appearing to read "Renee Causey-Upton", written over a horizontal line.

Renee Causey-Upton, PhD, OTD, OTR/L, CLA, FAOTA
Chair, Board of Licensure for Occupational Therapy

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on July 23, 2024, at 2:00 P.M. Eastern Time, at the Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky in PPC Conference Room 127CW. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to https://ppc.ky.gov/reg_comment.aspx or the contact person.

CONTACT PERSON:

Name: Sara Boswell Janes

Title: Staff Attorney III

Agency: Department of Professional Licensing, Office of Legal Services

Address: 500 Mero Street, 2 NC WK#2

Phone Number: (502) 782-2709 (office)

Fax: (502) 564-4818

Email: Sara.Janes@ky.gov

Link to public comment portal: https://ppc.ky.gov/reg_comment.aspx

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 201 KAR 28:240
Contact Person: Sara Boswell Janes
Phone Number: (502) 782-2709 (office)
Email: sara.janes@ky.gov

(1) Provide a brief summary of:

- (a) What this administrative regulation does: This administrative regulation implements KRS 319A.310, the Occupational Therapy Licensure Compact.
- (b) The necessity of this administrative regulation: This administrative regulation is necessary because KRS 319A.310, Section 15.B.1. requires rules adopted by the Occupational Therapy Compact Commission to be promulgated as administrative regulations pursuant to KRS Chapter 13A.
- (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the specific requirements of the authorizing statute, KRS 319A.310, Section 15.B.1. which requires rules adopted by the Occupational Therapy Licensure Compact to be promulgated as administrative regulations pursuant to KRS Chapter 13A.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation conforms to the content of KRS 319A.310 which requires this promulgation.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change this existing administrative regulation: N/A
- (b) The necessity of the amendment to this administrative regulation: N/A
- (c) How the amendment conforms to the content of the authorizing statutes: N/A
- (d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect the 4044 active and 114 inactive licensees, and will also affect new applicants for licensure.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

- (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The Board will have to review the information collected on licensees by and through its applications to determine if regulatory revisions to the material incorporated by reference are necessary to comport with the required data elements for the compact. If amendments are needed the Board will be required to go through the administrative regulation amendment process.

- (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost will be limited to attorney fees for drafting administrative regulation amendments, some administrative expenses for staffing meetings under the Open Meetings Act, and per diem for board members' regulations committee work.
- (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, the Board will be active in the Occupational Therapy Compact which will open avenues for more access to occupational therapy in Kentucky, and also allow Kentucky occupational therapists to work across state lines providing more access to services for the public in all states.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

- (a) Initially: There is no additional cost for the implementation of this administrative regulation.
- (b) On a continuing basis: There is no additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by credential holders and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be required.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not): Tiering was not applied as the changes apply to all equally.

FISCAL IMPACT STATEMENT

Regulation No. 201 KAR 28:240
Contact Person: Sara Boswell Janes
Phone Number: (502) 782-2709 (office)
Email: sara.janes@ky.gov

1. Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 319A.070(1), (3) and KRS 319A.310. Additionally, interstate compacts are specifically authorized under the federal constitution (Article 1, Section 10, Clause 3- the Compacts Clause) and take precedence over any conflicting state law pursuant to the Compacts Clause and the Contracts Clause, U.S. Constitution, Article 1, Section 10, Clause 1.

2. Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Licensure for Occupational Therapy is the promulgating agency and the only other affected state unit, part or division.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: Unknown.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? It will likely take more than one year for the data system and compact to become operational. There will likely be some state expenditures necessary for administering applications for compact privileges within and without the Commonwealth and which may require imposition of a fee to cover the cost of administration. However, expenditures, revenue and cost savings in subsequent years, if any, are currently indeterminable.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):
None anticipated.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no difference in expenditures, revenues or cost savings to local entities in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): There are no other regulated entities not otherwise listed.

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no anticipated fiscal impact to this administrative regulation in the first year. It is possible there will be a fiscal impact of administering applications for compact privileges for in-state licensees who apply for the privilege to practice in another state, and for out of state licensees who apply for the privilege to practice in Kentucky. The Compact Commission is in its infancy and the work to be conducted by the state board on behalf of the compact is yet to be determined.

(b) Methodology and resources used to determine the fiscal impact: Methodology and resources are currently indeterminable since there are no known duties outlined for the state in relation to the compact.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate). This administrative regulation will not have an overall negative or adverse major economic impact to the entities identified.

(b) The methodology and resources used to reach this conclusion: Methodology and resources are currently indeterminable since there are no known duties outlined for the state in relation to the compact; however, given the number of licensees, current budget and anticipated number of applications for out of state licensees to obtain the privilege to practice in Kentucky, no major economic impact is anticipated.

FEDERAL MANDATE ANALYSIS COMPARISON

Regulation No. 201 KAR 28:240

Contact Person: Sara Boswell Janes

Phone Number: (502) 782-2709 (office)

Email: sara.janes@ky.gov

(1) Federal statute or regulation constituting the federal mandate. There is no federal mandate.

(2) State compliance standards. N/A

(3) Minimum or uniform standards contained in the federal mandate. N/A

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/A

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

SUMMARY OF MATERIALS INCORPORATED BY REFERENCE

201 KAR 28.240

"The Occupational Therapy Compact Rules", adopted by the Occupational Therapy Compact Commission at its Meeting on March 20, 2024, relating to:

- (a) Chapter 2. Rule on Definitions, adopted March 20, 2024; and
- (b) Chapter 3. Data System Reporting Requirements, adopted March 20, 2024.

SUMMARY OF CHANGES MATERIALS INCORPORATED BY REFERENCE

201 KAR 28.240E

There are no changes being made to the Occupational Therapy Compact Commission Rules.