

Indiana Becomes 47th State to License OTAs

■ **Thomas F. Fisher, PhD, OTR, CCM,
FAOTA**

On May 10, 2011, Indiana Governor Mitch Daniels signed Indiana House Bill 1233, the law that contained the language for two of our three areas we had for legislative change this session. The Indiana Occupational Therapy Association (IOTA) was successful in achieving inclusion of two areas, which partially meet our legislative goals: (1) occupational therapy assistants will now move from being certified by the state to licensure and (2) there is now no recognition of the occupational therapy aides providing direct services. Only occupational therapists, occupational therapy assistants, and occupational therapy or occupational therapy assistant students may provide direct services.

In terms of incorporating changes in scope of practice (our third area), we made progress with physical therapists and chiropractors. We agreed on language, according to our lobbyist, John Coldren, Esq. I have asked him to send us a copy of the accepted language that each respective group agreed on. We will work this summer and fall to reach a compromise with the Indiana Speech & Hearing Association (ISHA) and the Indiana Podiatry Association. ISHA does not want us to include swallowing in our scope of practice. Podiatry does not want the word orthoses. We have provided both groups evidence that these are areas of occupational thera-

py's scope of practice, that payers identify occupational therapy practitioners as providers of these services, and that educational entry-level standards require competency in these areas. Our lobbyist believes a face-to-face meeting is necessary for clarification and discussion, similar to what we did with the Indiana chapter of the American Physical Therapy Association's leadership.

In addition, the committee was asked

tion. The regulation needs clarification and interpretation from the Family and Social Services Administration (FSSA). A meeting is being explored with FSSA. IOTA understands the regulation has been around since 1997, but IOTA members were unaware of it. A plan is being developed to address concerns about the Medicaid regulations in terms of occupational therapy. FSSA may not be aware of what profession-related

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to support occupational therapists and occupational therapy assistant members working in the school system (specifically, Indianapolis Public Schools [IPS]) to access Medicaid funding for their services (for those students being served through Medicaid). A regulation for compliance with the Medicaid program was identified. The regulation is related to occupational therapy assistant supervision and the qualifications of the supervising occupational therapist, as well as the occupational therapy assistant delivering occupational therapy services. IPS requested IOTA's interpretation of the regulation. There was also a discussion with the Indiana State Department of Educa-

progress (i.e., all states are regulated and 48 require licensure) has occurred since 1997 related to occupational therapy. In addition, the federal Medicaid interpretation needs to be considered.

Finally, the committee continues to facilitate conversations with the governor's office about making the appointment of the consumer member on the Occupational Therapy Committee of the Medical Licensing Board, so they can have all five positions filled. We will continue to follow up on this issue.

*Thomas F. Fisher, PhD, OTR, CCM,
FAOTA is the Legislative Chair for
the Indiana Occupational Therapy
Association.*

Revision to Washington State Practice Act Signed Into Law



Legislation to revise the Washington State occupational practice act to include wound care management and sharp debridement was signed into law by Governor Christine Gregoire on April 15. The Washington Occupational Therapy Association (WOTA) lobbied for the passage of SB 5018 by Senator Karen Keiser and companion

legislation HB 1076 by Representative Jim Moeller in the House.

WOTA members joined Governor Gregoire in the State Capitol building in Olympia at the bill signing ceremony. Pictured from left to right: Christa Huddleston, Becky Gibson, Allegra Anderson, Senator Steve Hobbs, Mark Gjurasic (WOTA's lobbyist), Tien Le, Peter

Sharp, Jessica Krawczyk, Susan Louie, Paul Neal (WOTA's attorney), and Joshua Halpin. WOTA members who were instrumental in lobbying for the revision who are not pictured include: Sherri Olsen, WOTA President; JoAnn Keller Green, WOTA president-elect; and Rose Racicot, LC chair.

Photo courtesy of Washington State Senate.

The American Occupational Therapy Association's **State Affairs Group**

Purpose

The State Affairs Group is responsible for all of the Association's state legislative and regulatory activities. This department monitors and provides analysis of proposed legislation and regulations affecting occupational therapy in the states, conducts outreach and provides assistance to state OT associations on key state issues such as professional regulation/scope of practice. The department also provides day-to-day liaison with state OT regulatory boards on professional trends and issues such as supervision and continuing competence requirements.

Resources

Department staff provide research, technical assistance, and consultation on a wide range of state legislative and regulatory issues, and function as a clearinghouse for information useful to state regulatory boards. Staff members work with the state regulatory boards, analyze proposed legislation and regulations on key issues, provide testimony and recommend appropriate strategies for handling issues that affect the profession.

Staff and Contact Information

Please contact us if there are any issues that you would like to learn more about or require technical assistance. The department also invites suggestions for future newsletter articles.

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Occupational Therapy is in the Driver's Seat With Driver Rehabilitation in California!

■ **Elizabeth Gomes, MS, OTR/L**
Laura Stewart, MA, OTR/L, CHT

With the growing number of older drivers comes an increasing need for assessment of their skills and safety, particularly after a medical event or injury. Recently some exciting developments have been happening as a result of the great work of our Occupational Therapy Association of California (OTAC) Ad Hoc Committee on Driver Rehab. We've been building a solid partnership with the Department of Motor Vehicles (DMV) and the California Highway Patrol (CHP) through participation with the Strategic Highway Safety Plan project. This group is pursuing various means of improving highway safety, and clearly are recognizing the value of occupational therapy, the contribution that occupational therapy practitioners make, and how we are suited uniquely for assessment of cognitive, perceptual,

and motor skills as they relate to driving. It was wonderful to hear how they want to partner with OT practitioners.

OTAC Committee members Karin Kleinhans, OTR/L, Gayle San Marco, OTR/L, CDRS, and Purnima Karia, OTR/L, CDRS attended a recent meeting of the committee where they presented two Action Proposals. Allison Walz OT/L, DRS, Chair of the Ad Hoc committee, Lee Hirsch, OTR/L, DRS, LDI, and Elizabeth Gomes, MS, OTR/L were able to participate by phone conference. One proposal involved the development of a simplified driving risk assessment form. The second proposed getting information regarding occupational therapy referrals to appear on the DMV page. Both proposals were well received by the committee and are undergoing further development. Both the DMV and the CHP have expressed great interest in having OT practitioners who are involved in driver rehab present to their groups.

Another project, spearheaded by Walz, is revising and updating the list of OTs and facilities who offer assessment in driving. This will be posted on the Web site www.eldersafety.org. If you become aware of a patient who needs more in-depth assessment than you or your workplace can provide, you will be able to find a list of OTs on the site. If you wish to be listed on the site contact the OTAC Practice, Ethics, and Reimbursement Co-chairs at Practice-chr1@otaonline.org. It's wonderful to have occupational therapy recognized as the primary profession in driver rehabilitation!

Elizabeth Gomes, MS, OTR/L and Laura Stewart, MA, OTR/L, CHT are Co-Chairs, OTAC Practice, Ethics, and Reimbursement Committee for the Occupational Therapy Association of California.

Representative Assembly Approves Revised Definition of OT

■ **Marcy M. Buckner**

AOTA has worked with state occupational therapy associations to enact state licensure laws for more than 30 years. Part of that support has included reference documents such as the AOTA Model Practice Act, which includes a definition of occupational therapy practice. Once enacted into law, the definition legally defines the occupational therapy scope of practice in state statutes. The Definition of Occupational Therapy Practice for the AOTA Model Practice Act is used by legislators and regulators to define occupational therapy practice in state law. The Occupational Therapy Practice Framework was revised in 2008 (*Framework-II*), which facili-

tated updating the 2004 AOTA Model Practice Act's Definition of Occupational Therapy Practice to reflect the changes in the *Framework-II* and in practice.

Revisions to the definition were last adopted by the Representative Assembly (RA) in 2004. In June 2010, AOTA's State Affairs Group sought input from the Association's leadership, external stakeholders, and the membership in order to facilitate revisions to the definition. The input that was submitted was reviewed by AOTA staff and then compiled into a revised version of the definition that was distributed to stakeholders for a second round of comments in September 2010. Stakeholder comments were again thoroughly reviewed and integrated into the revised definition.

The RA met April 12 to 14, 2011, in Philadelphia, Pennsylvania, where they approved the revised definition that will replace the previous definition in the AOTA Model Practice Act and will be distributed to state regulatory boards, state associations, and other interested parties. AOTA thanks you for your input in this process to help define the occupational therapy scope of practice as the profession works to realize the Centennial Vision. *The RA-approved revision of the Definition of OT Practice for AOTA's Model Practice Act appears on page 4.*

Marcy M. Buckner, JD, is a state policy analyst at AOTA.

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Definition of Occupational Therapy Practice for the AOTA Model Practice Act

The practice of occupational therapy means the therapeutic use of occupations, including everyday life activities with individuals, groups, populations, or organizations to support participation, performance, and function in roles and situations in home, school, workplace, community, and other settings. Occupational therapy services are provided for habilitation, rehabilitation, and the promotion of health and wellness to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Occupational therapy addresses the physical, cognitive, psychosocial, sensory-perceptual, and other aspects of performance in a variety of contexts and environments to support engagement in occupations that affect physical and mental health, well-being, and quality of life.

The practice of occupational therapy includes:

- A. Evaluation of factors affecting activities of daily living (ADL), instrumental activities of daily living (IADL), rest and sleep, education, work, play, leisure, and social participation, including:
 1. Client factors, including body functions (such as neuromusculoskeletal, sensory-perceptual, visual, mental, cognitive, and pain factors) and body structures (such as cardiovascular, digestive, nervous, integumentary, genitourinary systems, and structures related to movement), values, beliefs, and spirituality.
 2. Habits, routines, roles, rituals, and behavior patterns.
 3. Physical and social environments, cultural, personal, temporal, and virtual contexts and activity demands that affect performance.
 4. Performance skills, including motor and praxis, sensory-perceptual, emotional regulation, cognitive, communication and social skills.
- B. Methods or approaches selected to direct the process of interventions such as:
 1. Establishment, remediation, or restoration of a skill or ability that has not yet developed, is impaired, or is in decline.
 2. Compensation, modification, or adaptation of activity or environment to enhance performance, or to prevent injuries, disorders, or other conditions.
 3. Retention and enhancement of skills or abilities without which performance in everyday life activities would decline.
 4. Promotion of health and wellness, including the use of self-management strategies, to enable or enhance performance in everyday life activities.
 5. Prevention of barriers to performance and participation, including injury and disability prevention.
- C. Interventions and procedures to promote or enhance safety and performance in activities of daily living (ADL), instrumental activities of daily living (IADL), rest and sleep, education, work, play, leisure, and social participation, including:
 1. Therapeutic use of occupations, exercises, and activities.
 2. Training in self-care, self-management, health management and maintenance, home management, community/work reintegration, and school activities and work performance.
 3. Development, remediation, or compensation of neuromusculoskeletal, sensory-perceptual, visual, mental, and cognitive functions, pain tolerance and management, and behavioral skills.
 4. Therapeutic use of self, including one's personality, insights, perceptions, and judgments, as part of the therapeutic process.
 5. Education and training of individuals, including family members, caregivers, groups, populations, and others.
 6. Care coordination, case management, and transition services.
 7. Consultative services to groups, programs, organizations, or communities.
 8. Modification of environments (home, work, school, or community) and adaptation of processes, including the application of ergonomic principles.
 9. Assessment, design, fabrication, application, fitting, and training in seating and positioning, assistive technology, adaptive devices, and orthotic devices, and training in the use of prosthetic devices.
 10. Assessment, recommendation, and training in techniques to enhance functional mobility, including management of wheelchairs and other mobility devices.
 11. Low vision rehabilitation.
 12. Driver rehabilitation and community mobility.
 13. Management of feeding, eating, and swallowing to enable eating and feeding performance.
 14. Application of physical agent modalities, and use of a range of specific therapeutic procedures (such as wound care management; interventions to enhance sensory-perceptual, and cognitive processing; and manual therapy) to enhance performance skills.
 15. Facilitating the occupational performance of groups, populations, or organizations through the modification of environments and the adaptation of processes.

State Legislative Update

■ Marcy M. Buckner

During the 2011 state legislative sessions, occupational therapy associations moved forward with efforts to revise state practice acts, pass OTA licensure legislation, and guard against scope of practice challenges from other professions.

OTA licensure

Legislation that provides for the licensure of OTAs, and was supported by the Indiana Occupational Therapy Association, was signed into law by Governor Mitch Daniels on May 10. Indiana is now the 47th state to license OTAs. Currently, OTAs are certified in Indiana.

OT Scope of Practice

Legislation to amend the New York occupational therapy practice act passed the New York House on June 15 and the Senate on June 16. The bills, (NY SB 2911/ NY AB) 4296, supported by the New York State Occupational Therapy Association (NYSOTA), will revise the definition of practice of occupational therapy, amend referral requirements and strengthen regulatory provisions for occupational therapy assistants.

The legislation also expands referral requirements so that all professions with the ability to prescribe in New York, including optometrists, may refer clients for occupational therapy. The legislation will trigger rulemaking in the state department of education to define practice by OTAs, including clearer supervision requirements along with education, experience, and examination requirements. The legislation now awaits Governor Cuomo's signature.

Washington State Governor Christine Gregoire signed legislation on April 15, 2011, that revises the occupational therapy practice act to include wound care management and sharp debridement. The Washington Occupational Therapy Association (WOTA) lobbied for the passage of SB 5018 by Senator Karen Keiser and companion legislation HB 1076 by Representative Jim Moeller in the House. Members of WOTA

joined the governor for the bill signing ceremony in April.

Orthotics & Prosthetics

Legislation introduced in Iowa would have licensed orthotists and prosthetists. The bill did not provide for an exception for occupational therapists providing assessment, design, fabrication, and fitting of orthotics, or training in the use of prosthetics. The Iowa Occupational Therapy Association (IOTA) worked with AOTA to lobby for exemption language to be included in the legislation. During negotiations with the state orthotic and prosthetic (O&P) association, the parties agreed to use this bill as a vehicle to add orthotics and prosthetics language to the occupational therapy practice act, rather than make an exemption for occupational therapists. Although the O&P association agreed to add this language to the legislation, the bill failed to pass out of committee due to concerns about the bill's fiscal impact.

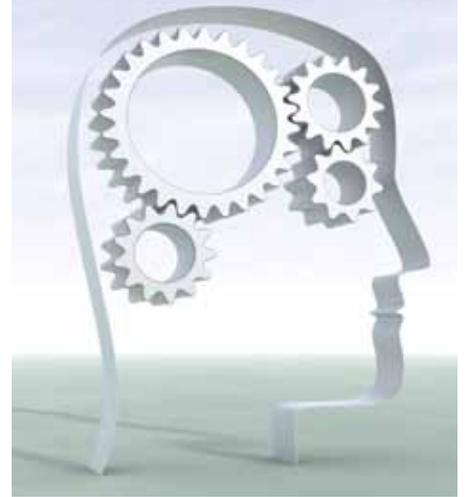
Physical Therapy

State physical therapy chapters are being encouraged to adopt the American Physical Therapy Association's *Guide to Physical Therapist Practice*. Of concern is the addition of "functional training and self-care and in home, community, or work re-integration" to the model definition of physical therapy. The limited context addressing functional training is not clearly defined, potentially misleading consumers and encroaching on occupational therapy's traditional domain. In this session, legislation revising the physical therapy scope of practice acts was introduced in Alabama and Oklahoma.

The Alabama Occupational Therapy Association successfully negotiated with the state physical therapy association to include favorable terms for the use of functional training related to movement and mobility in a physical therapy bill, but the bill failed to pass out of committee. Subsequently, another bill was

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State Legislative Update

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introduced in Alabama that would provide only for direct access to physical therapy services, but does not include any change to the physical therapy scope of practice.

In addition, in Oklahoma legislation was introduced to amend the physical therapy practice act regarding functional training, wound care, and debridement. The Oklahoma Occupational Therapy Association was successful in advocating for clarifying language similar to that used in Alabama concerning functional training. However, other health care practitioners have raised concerns regarding other language in the bill and the legislation has yet to move out of committee.

Athletic Trainers

In California, pending legislation that would provide for the licensure of ath-

letic trainers includes broad scope of practice language. The legislation establishes the Athletic Trainer Licensing Committee, which would define athletic trainers and craft the scope of practice language. The Occupational Therapy Association of California submitted a letter to the bill sponsor, Assembly Member Mary Hayashi (D-Haywood), expressing its concern that there is no specific scope of practice language included in the bill. Subsequently the bill was amended to provide for registration of athletic trainers. Legislation to register athletic trainers has passed the California legislature for the past 3 years, and each year it was vetoed by then-Governor Schwarzenegger.

Athletic trainer licensure legislation has also been introduced in Connecticut. The Connecticut Occupational Therapy Association (ConnOTA) has

been working with the state physical therapy association to raise concerns surrounding the athletic training scope of practice language. Of concern is language that includes rehabilitation in the definition of athletic training. ConnOTA has provided testimony and written comments to legislators regarding the rehabilitation language and other issues of concern. Connecticut's legislative session adjourned in June without the passing of this legislation.

The 2011 legislative session has been challenging, and there continue to be opportunities to advocate. Your membership in AOTA and state associations provides us with the resources to engage in these issues on your behalf.

Marcy M. Buckner, JD, is a state policy analyst at AOTA. She can be reached at mbuckner@aota.org.



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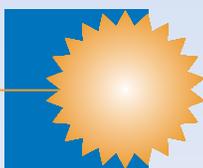
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