Support for NBCOT Certification Renewal Program

As current or former members of occupational therapy state regulatory bodies, we strongly support the National Board for Certification in Occupational Therapy’s (NBCOT’s) approach to certification renewal. Contrary to the concluding point of Low’s article, “NBCOT and State Regulatory Agencies: Allies or Adversaries?” (AJOT, January 1997, pp. 74–75), NBCOT’s Certification Renewal Program enhances and complements state regulation.

Low stated, “The profession of occupational therapy depends on state law for its legal existence” (p. 74). To the contrary, regulation exists to protect the public’s health, safety, and welfare. The core function of state regulation is to protect the public by defining and enforcing standards. Additional functions are: to facilitate consumer access to information, update and develop regulations to better define appropriate conduct by both occupational therapists and occupational therapy assistants, to update and develop regulations to better define consumer expectations, and to continually review credentials of licensees to ensure that they are practicing safely, effectively, and ethically.

Protection of the profession is not, nor has it ever been, a function of state regulation. Although there is some form of regulation in all states, the type of regulation is not uniform. For example, despite the fact that 31 jurisdictions mandate continuing education, there are no national standards for these requirements. Additionally, in three states—Hawaii, California, Colorado—there are no provisions for screening renewal applicants for previous illegal or incompetent behaviors or disciplinary actions. The questions in state applications for licensing vary widely from state to state. When inquiring about illegal and incompetent behavior of those regulated, it is easy to see the public protection benefits of the new NBCOT Certification Renewal Program. These public protections will be strengthened even further as NBCOT develops its national practitioner database that will provide state regulators with rapid access to up-to-date information.

In developing the Certification Renewal Program, NBCOT consulted state regulators in its design and utility. The result is a program that complements, not usurps, the state regulatory process. With our increasingly mobile profession and shared missions for consumer protection, NBCOT’s role is an important and welcomed thread in the public and private fabric woven to protect the public. For that reason, the Certification Renewal Program deserves strong support from our profession. As persons involved in the regulation of occupational therapy practice, we believe that the Certification Renewal Program will demonstrate to consumers, employers, and payers that occupational therapy practitioners adhere to a profession-wide standard. In this era of deregulation, privatization of regulation, and continued health care reform, it is time for state regulatory bodies, NBCOT, and the American Occupational Therapy Association to work together toward protecting the public and our profession’s interests and concerns and move forward into the 21st century.

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Author’s Response

I agree wholeheartedly with the letter writers’ final sentence. It is vitally important that NBCOT and state agencies join forces to promote the protection of both the public and the profession. Indeed, this is the message that I hoped to convey.

In a perfect world, the writers’ statement, “Protection of the profession is not, nor has it ever been, a function of state regulation,” would be true, but the reality is that professions must have definition under state statute to avoid being affected by legislation sponsored by other professions. My statement, “The profession of occupational therapy depends on state law for its legal existence,” is not intended to deny the consumer protection aspects of licensure. The reality is that there is no federal legislation that gives definition to occupational therapy. Legal definitions of the profession are found in state statutes. Because legislators will not support legislation couched in terms of professional protection, proposed legislation must address consumer protection.

Consumer protection and professional protection need not be mutually exclusive. Consumers cannot compare occupational therapists as they can brands of television sets or canned peas. State licensing laws contribute to consumer protection; at the same time, they provide protection to members of the profession by identifying those persons who (a) have met minimum education requirements and, in many states, (b) participate in ongoing activities to assure continued competence. The NBCOT can aid states that request assistance in investigative and other activities to assure the competence of practitioners. Among the most pressing needs is a system through which confirmed ethical behaviors can be monitored.