



**BY-LAWS OF THE NEWFOUNDLAND AND LABRADOR
OCCUPATIONAL THERAPY BOARD**

DECEMBER 2006

Amendments

April 2008

June 2011

Reformatted July 2014

BY-LAWS OF THE NEWFOUNDLAND AND LABRADOR OCCUPATIONAL THERAPY BOARD

1. Interpretation

(1) In this By-Law, unless the context otherwise requires:

- (a) 'Act' means the *Occupational Therapists Act, 2005*, SNL 2005, Chapter 0-4.1 as from time to time amended, and every statute that may be substituted therefore and, in case of such amendment or substitution, and references in the By-Laws shall be read as referring to the amended or substituted provisions therefore;
- (b) 'Board' means the Newfoundland and Labrador Occupational Therapy Board;
- (c) 'By-Laws' mean by-laws made by the Board under Section 31 of the *Act* and the *Corporation Act*;
- (d) 'Director' means a person elected or appointed to the Board;
- (e) 'Occupational Therapist' means a person who practices occupational therapy;
- (f) "OT(R) NL" means the professional designation Occupational Therapist(Registered) Newfoundland and Labrador;
- (g) 'Minister' means the minister appointed under the *Executive council Act* to administer the *Act*;
- (h) 'Register' means the register of occupational therapists; and
- (i) 'Registrar' means the Registrar of Occupational Therapists referred to in Section 3 of the *Act*.

2. Membership of the Board

(1) The Board shall consist of:

- (a) Five members elected from and by persons holding a license to practice as an occupational therapist issued under the *Act* who shall be elected in accordance with Article 8 of the By-Laws;
- (b) Two directors appointed under Section 4 of the *Act* who are not licensed occupational therapists and who are suitable persons to represent the public interest;
- (c) The Board shall elect from among the elected Directors a Chairperson, a Secretary/Treasurer and a Registrar;
- (d) The Chairperson shall chair all meetings of the Board under Article 9 of the By-Laws and shall chair the Annual General Meeting of occupational therapists under Article 10 of the By-Laws. The duties of the chairperson shall include but not be limited to:
 - (i) Calling and chairing all meetings of the Board;
 - (ii) Belonging by virtue of the position to all committees of the Board;
 - Directing and coordinating the affairs of the Board; and
 - Performing other activities that may be assigned by the Board;
- (e) The office of Secretary-Treasurer shall be performed by one Director and the duties of the Secretary-Treasurer shall include but not be limited to:
 - Recording minutes of the Board;

- issuing all notices and mailings to licensees as designated by the Chairperson;
 - managing the accounts of the Board;
 - disbursing funds of the Board;
 - preparing and presenting the annual budget; and
 - preparing and presenting a fiscal income statement, balance sheet and statement of retained earnings for the last fiscal year which shall be presented at the annual general meeting.
- (f) The Registrar shall keep a register of occupational therapists containing the names of persons licensed to practice occupational therapy in the province and such other information that may be required by the Board and shall act as the secretary to the Board. The duties of the Registrar shall include but not be limited to:
- Maintaining the register of licensees;
 - Issuing applications for license and renewal of license;
 - Receiving applications for license and renewal of license;
 - Issuing licenses to eligible applicants;
 - Issuing annual membership cards to eligible applicants;
 - Collecting license fees, renewal fees and fines; and
 - Publishing a list of all persons licensed to practice occupational therapy in the province in a newspaper having general circulation throughout the province during Occupational Therapy week of each fiscal year assuming the duties of the Chairperson in the absence of the chairperson.

3. Directors Term of Office

(1) Term of Office

- (a) Directors shall be elected for a term of three (3) years, except the first directors who shall be elected in accordance with section 37 of the Act. The term of office of directors shall commence at the end of the annual general meeting of the licensed occupational therapists at which the results of the election are proclaimed;
- (b) An elected Director whose term of office expires or terminates is eligible for re-election, but an elected Director shall not hold the office of Director for more than nine (9) consecutive years;
- (c) An elected Director may resign the office of Director by written notice to the Board;
- (d) A Director appointed by the Minister and Section 4 of the Act holds office for a term of three years, which term shall commence upon the date of appointment set out in the letter of appointment;
- (e) An appointed Director whose term of office expires or terminates is eligible for reappointment and an appointed Director may, having held office for a period of nine (9) consecutive years, be eligible for reappointment after the expiration of twelve (12) months from the end of the year in which he or she was last a Director;
- (f) Where the term of an appointed director expires, he or she continues to be a Director until re-appointed or replaced; and,
- (g) A person appointed by the Minister under Section 4 of the Act may resign the office of Director by written notice to the Minister.

4. Vacancies

(1) The office of a Director shall become vacant if that Director:

- (a) Dies;
- (b) Becomes incapable of performing the duties of a Director in the case of elected Directors;
- (c) Resigns the office of Director by written notice to the Board in the case of elected Directors; or,
- (d) Resigns the office of Director by written notice to the Minister in the case of appointed Directors.

(2) In the case of elected Directors, the remaining Directors shall appoint a replacement Director to serve until the next Annual General Meeting of licensed occupational therapists. No defect in the appointment of a replacement Director shall nullify or invalidate acts performed by the appointment of a replacement Director.

(3) In the event that an appointed Director:

- (a) Dies;
- (b) Becomes incapable of performing the duties of a Director in the opinion of a majority of the Board;
- (c) Misses more than three (3) meetings in a row; or,
- (d) Resigns the office of Director by written notice to the Minister the Board shall contact the Minister and request that a replacement Director be appointed.

5. Reimbursement of Expenses of Directors (amended May 8, 2008)

Board members will be reimbursed for transportation, meals and other expenses that are incurred in attendance at meetings of the Board or other business of the Board in accordance with the Travel Policy of the Board.

6. Remuneration of Members of Adjudication Panels

(1) Per diems will be paid to licensed occupational therapists and public interest representatives serving as members of an adjudication tribunal established under the *Act*. The Board may pay a member of an adjudication panel established under the *Act* who is not a licensed occupational therapist on a lump sum, hourly or daily basis provided the remuneration agreement is pre-approved by the Board. The per diem rates which will apply to licensed occupational therapists serving as members of an adjudication panel are to be calculated based on eight hours straight time pay at the top of the scale hourly rate of pay for licensed occupational therapists under the then current AAHP collective agreement with HMQ, as represented by Treasury Board.

7. Election of Directors

(1) General

- (a) An election to fill any vacancies on the Board shall occur every year with the results being proclaimed at the next following Annual General Meeting of the licensed occupational therapists;
- (b) The newly elected Directors shall take office immediately following the Annual General Meeting of the licensed occupational therapists at which the election results were proclaimed;
- (c) The five elected Directors shall be elected by a vote of the licensed occupational therapists;
- (d) The Registrar at the time of the election shall act as returning officer for the elections and shall make all rulings arising out of the nomination process and election process; and,
- (e) The rulings of the Registrar as returning officer shall in the case of nominations be subject to an appeal in writing to the Board within 15 days of the date of the Annual General Meeting of licensed occupational therapists. The decision of the Board shall be final and shall not be subject to further appeal or to judicial review except in the case of fraud or serious procedural error resulting in material prejudice to an occupational therapist.

(2) Nominations

- (a) Nomination forms shall be forwarded to licensed occupational therapists ninety days prior to the Annual General Meeting of the licensed occupational therapists. Nominations must be moved and seconded by licensed occupational therapists in writing on the nomination form, and the nomination form must be signed by the nominee(s) consenting to the placing of his or her name on the ballot. Licensed occupational therapists may nominate one or more nominees, or a slate of nominees, for election as Directors;
- (b) Nomination forms must be returned to the Board no later than sixty days prior to the Annual General Meeting of the licensed occupational therapists; and
- (c) No defect in the nomination of a director shall nullify or invalidate acts performed by a Board and those acts shall be as valid and effectual as if no defect in the nomination existed.

(3) Elections

- (a) Voting for Directors shall be conducted by written, sealed, mail-in secret ballots which shall be mailed to all licensed occupational therapists eligible to vote at least thirty days prior to the Annual General Meeting of the licensed occupational therapists or by electronic ballots encrypted or otherwise protected to preserve secrecy;
- (b) Licensed occupational therapists shall be eligible to vote for all nominees;
- (c) The original, sealed ballots or secret electronic ballots must be returned to the returning officer no less than seven (7) days prior to the Annual General Meeting of the licensed occupational therapists;

- (d) Ballots shall be opened by the returning officer in the presence of one or more scrutineers appointed by the Board, who shall be a public interest representative on the Board, and the returning officer shall tabulate the ballots under the direction of the returning officer and keep a written records of the results of the voting;
- (e) The original, sealed ballots or secret electronic ballots and the written record of the results of the voting shall be kept in the custody of the Registrar for a period of six (6) months after the Annual General Meeting of the licensed occupational therapists at which the election results were proclaimed; and,
- (f) No defect in the election of a Director shall nullify or invalidate acts performed by a Board which acts shall be valid and effectual as if no defect in the election existed.

8. Meetings of the Board

(1) The Board shall meet not less than four (4) times per year at such places and at such times as it may determine. A meeting of the Board may be called at any time by the Chairperson, or by any three (3) Directors. The following procedures apply to meetings of the Board:

(a) Notice of any meeting of the Board stating the day, hour and place of meeting shall be given to each Director in person, or by mail, facsimile or e-mail transmission, at each Director's last known post-office address, facsimile transmission number or e-mail address, at least thirty (30) business days before the meeting is to take place, provided always that meetings of the Board may be held at any time without formal notice if all the Directors are present or those absent have waived notice of have signified their consent in writing to the meeting being held in their absence. Notice of any meeting or any irregularity in any meeting or in the notice thereof may be waived by any Director and such waiver may be validly given either before or after the meeting to which such waiver relates;

(b) A quorum of the Board is four (4) Directors, one of whom must be an appointed Director;

(c) A Director may, where all the Directors consent, participate in a meeting of the Board by means of telephone or other telecommunications device that permits all Directors to communicate with each other;

(d) Decisions of the Board shall be determined by majority vote of the Directors present or in attendance in accordance with Article 9 (c) except in the case of:

- (i) Introduction, amendment or repeal of the regulations;
- (ii) Changes in the license fee schedule;
- (iii) Acceptance of the financial statement of the board; or
- (iv) Removal of a board member, which shall require the votes of at least 3

board members.

(e) The votes shall be conducted by a show of hands or verbal indication and in the event of a tie the Chairperson shall cast deciding vote;

(f) The Secretary-Treasurer or other Director duly appointed by the Board shall keep minutes in writing of the meetings of the Board and any decisions of the Board. A declaration in writing by the Secretary-Treasurer or other Director duly appointed by the Board that a decision or resolution has been taken or made and an entry to that effect in

the minutes of the meeting of the Board shall be admissible in evidence as prima facie proof of that fact without further formality; and,

(g) A resolution in writing regarding a decision of the Board signed by all the Directors entitled to vote at a meeting of the Board is as valid as if it had been passed at a meeting of the Board.

9. Meetings of Licensed Occupational Therapists

(1) An Annual General Meeting of the licensed occupational therapists shall be held each year at such time and place as may be decided by the Board. The Board may make provision for licensed occupational therapists to participate at the annual general meeting of licensed occupational therapists by teleconference. A Special General Meeting of the occupational therapists may be called at any time by the Chairperson, or by any three (3) Directors, to deal with extraordinary business. The following procedures apply to meetings of the licensed occupational therapists:

(a) Notice of any meeting of the licensed occupational therapists shall be given to all licensed occupational therapists stating the day, hour and place of meeting in person, or by mail, facsimile or e-mail transmission, at each licensed occupational therapists address, facsimile transmission number or e-mail address appearing in the register, at least thirty (30) business days before the meeting is to take place, and such notice shall contain the time and place of the meeting, the agenda specifying the particulars of business to be transacted at the meeting, any notices of motion and documents in respect of the matters for decision of the licensed occupational therapists at the meeting;

(b) The Chairperson shall chair the Annual General Meeting of the licensed occupational therapists and any Special Meeting of the licensed occupational therapists;

(c) The election of Directors shall be held at the Annual General Meeting of the licensed occupational therapists and the election results shall be proclaimed;

(d) An auditor shall be appointed to audit the accounts of the Board and shall report on the financial statements at the Annual General Meeting of the licensed occupational therapists;

(e) The Board shall present to meetings of the licensed occupational therapists such further reports and information as the Board determines necessary or advisable and the licensed occupational therapists shall make such decisions or adopt such resolutions as they as a body deem appropriate;

(f) Decisions of the licensed occupational therapists shall be determined by majority vote of the licensed occupational therapists;

(g) Each licensed occupational therapist shall be entitled to one vote at any meeting of licensed occupational therapists, provided that:

(i) no licensed occupational therapist shall be entitled to vote unless he or she has paid all dues or fees, if any, then payable by him or her; and,

(ii) no non-practicing Member shall be eligible to vote at any meeting.

(h) Voting at meetings of licensed occupational therapists shall be conducted by secret ballot, standing poll, show of hands or voice or by such mail or electronic means as the Board may adopt by written resolution;

(i) The Secretary-Treasurer or another Director duly appointed by the Board shall keep minutes in writing of the meetings of the licensed occupational therapists and any decisions or resolutions of the licensed occupational therapists. A declaration in writing by the Secretary-Treasurer or another Director duly appointed by the Board that a decision or resolution has been taken and an entry to that effect in the minutes of the meeting of the licensed occupational therapists shall be admissible in evidence as prima facie proof of that fact without further formality.

10. Code of Ethics

(1) The Board has by resolution adopted the CAOT Code of Ethics which provide as follows:

“CAOT Code of Ethics

This Code of Ethics has been published and distributed by the Canadian Association of Occupational therapists to guide and assist the members in meeting and maintaining proper standards of professional conduct. The Code of Ethics shall be construed as a general guide and not a denial of the existence of other duties equally imperative and other rights not specifically mentioned.

Certain terms used in the Code require definition as follows:

“Member” means an Individual or Life Member of the Association and any person eligible for Individual Membership in the Association. “Client” means a person to whom a member renders professional services.

Article One

The member shall possess the qualities of integrity, loyalty, reliability and shall maintain a standard of professional competency as required by the profession, and shall at all times demonstrate behavior which reflects the member’s professional interest and attitude.

Article Two

The welfare of the client shall be the primary concern of the member. Without limiting the generality of the foregoing, in furtherance of this goal the member shall:

- (a) Provide service at the highest possible level of professional skill;*
- (b) Demonstrate respect for the client and appreciation of the particular need of the client;*
- (c) Respect confidentiality of all client information;*
- (d) Report to the appropriate authority any alleged unethical conduct or inappropriate practice of occupational therapy of another member.*

Article Three

A member shall recognize and accept responsibility to the relevant employing agency, to other health care colleagues, and to the community at large, and furthermore thereof shall:

- (a) Maintain comprehensive, accurate and up-to-date records of professional activities which include the nature, extent, duration and outcome of occupational therapy intervention;*
- (b) Co-operate and maintain appropriate communication with other health care colleagues or services dealing with the client in order that the combined desired results are achieved in the treatment of that client;*
- (c) Be professionally responsible for all treatment and services rendered by the member, or by other personnel including students, who are under the direct supervision of the member;*
- (d) Respect and uphold the dignity of each individual with whom the member is associated within the profession of occupational therapy;*
- (e) Provide no misrepresentation regarding information relating to the practice of the profession of occupational therapy or regarding the provision of occupational therapy services to individual clients;*
- (f) Maintain an appropriate relationship with members of the public in order to facilitate the promotion of the goals and functions of the profession of occupational therapy;*
- (g) Refrain from endorsing any goods or services related to the practice of occupational therapy without having made an objective assessment of those goods and services.*

Article Four

The members shall endeavor to maintain and improve their professional knowledge and skill, and in this regard shall maintain a progressive attitude.

Article Five

The members shall recognize and accept their responsibilities to the profession and to professional organizations, and shall do everything within their means to provide for the growth and development of occupational therapy.

Article Six

A member shall be responsible for the prompt identification and proposed resolution of conflicts of interest. If a real or potential conflict of interest arises, the member will take all reasonable steps to resolve conflict of interest by informing all parties of the need to resolve the situation in a manner that is consistent with the code of ethics. A member shall not exploit any relationship established as a therapist to further their own physical, emotional, financial, political, or business interests at the expense of the best interest of clients. This includes, but is not limited to: soliciting clients of the member's employer for

private practice; using coercion or taking advantage of trust or dependency to engage in sexual activities or to initiate/continue treatment of a client where it is ineffective, unnecessary or no longer indicated; breaching an agreement with a client or employer regarding the use of resources for provision of services; securing or accepting significant financial or material benefit for activities which are already awarded by salary or other compensation; and, prejudicing others against a colleague for reasons of personal gain.

11. Professional Misconduct

(1) The Code of Ethics governing the practice of occupational therapy in the province shall include the following definition of “professional misconduct” for the purpose of consideration of a complaint and the institution of disciplinary proceedings. “Professional misconduct” shall refer to conduct while actually engaged in the practice of occupational therapy and shall include but not be limited to the following which are considered acts of professional misconduct:

The Practice of the Profession and Care of and Relationship with Clients

1. Contravening a term, condition or limitation on the member's certificate of registration.
2. Contravening a standard of practice of the profession or failing to maintain the standard of practice of the profession.
3. Doing anything to a client for a therapeutic, preventative, palliative, diagnostic, cosmetic or other health-related purpose in a situation in which a consent is required by law, without such a consent.
4. Abusing a client verbally, physically, psychologically, emotionally or sexually.
5. Practicing the profession while the member's ability to do so is impaired by any substance.
6. Discontinuing professional services that are needed unless,
 - (a) The client requests the discontinuation,
 - (b) Alternative services are arranged,
 - (c) The client is given a reasonable opportunity to arrange alternative services,
 - (d) Services to the client have been discontinued without consultation with the member,
 - (e) The client can no longer meet agreed upon terms of payment, and all reasonable attempts on the part of the member to facilitate such payment have been unsuccessful,
 - (f) The client has been given reasonable opportunity to achieve set client goals, or
 - (g) In the reasonably held opinion of the occupational therapist, the client has engaged in abusive behavior toward the occupational therapist or toward another occupational therapist or staff member of the occupational therapist.
7. Discontinuing professional services contrary to the terms of an agreement between the member and a contracting agency or a hospital without reasonable cause.

8. Practicing the profession while the member is in a conflict of interest.
9. Giving information about a client to a person other than the client or his or her authorized representative except with the consent of the client or his or her authorized representative or as required or allowed by law.
10. Breaching an agreement with a client relating to professional services for the client or fees for such services.
11. Failing to reveal the exact nature of a treatment provided by the member following a client's request to do so.
12. Failing to refer a client to a regulated health professional when the member recognizes or should have recognized an abnormality or condition which indicates such a referral.
13. Continuing treatment of a client where it is no longer indicated or treatment has ceased to be effective or providing unnecessary treatment.

Representations About Members And Their Qualifications

14. Inappropriately using a term, title or designation in respect of the member's practice.
15. Using a term, title or designation indicating or implying a specialization in the profession.
16. Practicing the profession using a name other than the member's name as entered in the register.

Record Keeping And Reports

17. Failing to keep records in accordance with the standards of the profession.
18. Falsifying a record relating to the member's practice.
19. Failing, without reasonable cause, to provide a report or certificate relating to an assessment or intervention performed by the member, within a reasonable time, to the client or his or her authorized representative after a client or his or her authorized representative has requested such a report or certificate.
20. Signing or issuing, in the member's professional capacity a document that the member knows, or ought to have known, contains a false or misleading statement.

Business Practices

21. Submitting an account or charge for services that the member knows is false or misleading.
22. Failing to advise the client of the fee to be charged or any penalties for late payment prior to providing a service.
23. Charging a fee that is excessive in relation to the service provided.
24. Offering or giving a reduction for prompt payment of an account.
25. Failing to itemize an account for professional services,
 - (a) if requested to do so by the client or the person or agency who is to pay, in whole or in part, for the services, or
 - (b) if the account includes items that are purchased on behalf of clients.

26. Selling or assigning any debt owed to the member for professional services. This does not include the use of credit cards to pay for professional services.

Miscellaneous Matters

27. Contravening the *Occupational Therapists Act, 2005*, SNL 2005, Chapter 0-4.1, or the regulations under either of that Act.

28. Contravening a federal, provincial or territorial law, a municipal by-law or a by-law or rule of a hospital if,

(a) The purpose of the law, by-law or rule is to protect the public health, or

(b) The contravention is relevant to the member's suitability to practice.

29. Influencing a client to change his or her will or other testamentary instrument to provide a benefit to the member.

30. Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances would reasonably be regarded by members as disgraceful, dishonorable or unprofessional.

31. Misappropriating property from a client or workplace.

32. Failing to inform the member's employer of the member's inability to accept responsibility in those areas where specific training is required or where the member does not feel competent to function without supervision.

33. Failing to comply with an order of a panel of the Discipline Committee or an order of the Board.

34. Failing to appear before a panel of the Complaints Committee to be cautioned.

35. Failing to co-operate in a Board investigation.

36. Failing to reply appropriately or within a reasonable time to a written enquiry made by the Board.

(a) Subject to paragraph (c), failing to co-operate with an investigator of another health profession who produces a copy of his or her appointment as an investigator.

(b) Subject to paragraph (c), failing to provide copies of a record, document or thing that may be relevant to the investigation conducted by an investigator referred to in paragraph (a).

(c) Providing personal information relating to a client to an investigator referred to in paragraph (a) without the consent of the client.

37. Failing to supervise an assistant appropriately or in accordance with the regulations under the Act.

38. Directly or indirectly benefiting from the practice of occupational therapy while the member's certificate of registration is suspended unless full disclosure is made by the member to the Board of the nature of the benefit to be obtained and prior approval is obtained from the Executive Committee.

12. Conduct Unbecoming an Occupational Therapist

(1) The Code of Ethics governing the practice of occupational therapy in the province shall include the following definition of conduct unbecoming an occupational

therapist” for the purpose of consideration of a complaint and the institution of disciplinary proceedings. “Conduct unbecoming an occupational therapist” shall refer to conduct not in the course of the practice of the profession and shall include but not be limited to the following:

- Where a member has been convicted of an offence pursuant to the *Criminal Code* (Canada) the disciplinary committee may, by such notice as it prescribes, require the member to attend a hearing to establish why the member should not be subject to disciplinary action.
- Where a member has been convicted of an offence pursuant to the *Narcotics Control Act* (Canada) the disciplinary committee may, by such notice as it prescribes, require the member to attend a hearing to establish why the member should not be subject to disciplinary action.

13. Fees, Forms and Administration

(1)(a) Annual License Fees: Annual license fees shall be established by the Board from time to time and shall be payable each year and the Board shall ensure, where it is practicable, that the amount of the fees are sufficient to enable it to discharge its duties;

(b) Notice of Annual License Fees: Notice to all licensed occupational therapists shall be sent notice of the amount and due date of the annual fee a minimum of 30 days before the start of the licensing year and failure to receive that notice does not relieve the individual of the responsibility of paying the correct fee by the due date;

(c) Provisional License Fees: The Board may establish provisional license fees for a period of one year or such period as the board shall determine;

(d) Dishonored or NSF Payments: The Board reserves the right to charge fees, as established by the Board from time to time, for any license fees which are returned NSF or otherwise dishonored.

(e) Failure to Pay: Annual license fees shall be payable each year at the time established by the Board. Failure to pay annual license fees within thirty (30) days of such date shall result, at the discretion of the Board, in the cancellation of the license to practice occupational therapy and removal from the register.

(f) Late Fees: The board reserves the right to charge late fees for the failure to pay license fees or provisional license fees within the time established by the Board.

(g) Waiver: The Board may waive license fees or provisional license fees for any reason, in its sole discretion, and without restricting the generality of the foregoing, illness and temporary or permanent retirement.

14. General

(1)(a) The Fiscal year of the board shall be from April 1 to March 31.

(b) The membership year of the board shall be from March 1 to the last day of February; and,

(c) Contracts, obligations and financial transactions entered into with the Board's approval shall be signed by 2 of 5 authorized by the Board.

Pursuant to section 31 (1) of the Occupational Therapists Act, 2005 the undersigned directors of the Newfoundland and Labrador Occupational Therapy Board, as and for the Board, hereby make the By-Laws of the Newfoundland and Labrador Occupational Board, effective the 12th day of December, 2006.

Amendments:

15. Professional Designation (April 2008)

(1) Licensed occupational therapists shall use the professional designation OT(R) NL as opposed to the professional designation OT(C).

16. Currency Hours (June 2011)

(1) Has practiced occupational therapy for a minimum of 600 hours within the 3 years immediately preceding the date of the application for licensure or renewal or has practiced occupational therapy within the 3 year period preceding the date of the application in a jurisdiction that has a comprehensive continuing competence program that included an approved objective assessment.