

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: Board of Occupational Therapy TITLE NUMBER: 13

AMENDMENT TO AN EXISTING RULE: YES X, NO _____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 13CSR1

TITLE OF RULE BEING AMENDED: Title 13, Legislative Rules of the
Board of Occupational Therapy

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB329

SECTION 64-9-23, PASSED ON March 14, 1998

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: July 1, 1998

Evelyn M. Dales
Evelyn M. Dales, Chair

\$5.00



WEST VIRGINIA BOARD OF OCCUPATIONAL THERAPY
119 SOUTH PRICE ST.
KINGWOOD, WEST VIRGINIA 26537
304-329-0480

PROMULGATION HISTORY OF THE RULE

Notice of public comment period and copy of proposed rules were sent to all licensees and interested parties on 6-20-97.

Notice of public comment period was filed with Secretary of State's office on 6-25-97.

Public comment period was June 25, 1997 to July 25, 1997.

Filed agency approved rule with Secretary of State's office on 8-01-97.

The Board's rule was presented to the Legislative Rule-Making Review Committee on 11-5-97.

The Legislative Rule-Making Review Committee authorized the agency to promulgate the rule as modified with certain amendments on 11-5-97.

Filed notice of rule modification of a proposed rule with Secretary of State and Legislative Rule-Making Committee on 12-4-97.

SB329 authorizing, Title 13, Series 01, Administrative Rules of the Board of Occupational Therapy passed the legislature on 3-14-98.

SB329 was signed by the Governor on 4-2-98.

Final filed the legislative rule with Secretary of State's office on 4-17-98, effective 7-1-98.

FILED

APR 17 9 45 AM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**TITLE 13
LEGISLATIVE RULES
BOARD OF OCCUPATIONAL THERAPY**

**SERIES 1
ADMINISTRATIVE RULES OF THE BOARD
OF OCCUPATIONAL THERAPY AND LICENSURE OF
OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS**

§13-1-1. General.

- 1.1. Scope. -- This rule relates to W. Va. Code §30-28-1 et seq.
- 1.2. Authority. -- W. Va. Code §30-28-6.
- 1.3. Filing Date. --
- 1.4. Effective Date. -- July 1, 1998.

§13-1-2. Definitions.

As used in this rule:

- 2.1. "Active Practice" means engaging in occupational therapy.
- 2.2. "Association" means the West Virginia Occupational Therapy Association.
- 2.3. "Board" means the West Virginia Board of Occupational Therapy.
- 2.4. "Clinician" means a person who actively practices occupational therapy within a clinical setting.
- 2.5. "Consultant" means a person who conducts periodic meetings to review and to provide recommendations and resource information regarding methods of implementation of occupational therapy programs, evaluation of a program in its performance of occupational therapy services and recommendations for improved service.
- 2.6. "Continuing Professional Competence" means a growth in continuing professional competency and educational knowledge of current developments in the practice of occupational therapy and research.
- 2.7. "Direct Supervision" means the actual physical presence of a licensed supervisor and the specific delineation of tasks and responsibilities for personally reviewing and interpreting the results of any habilitative or rehabilitative procedures conducted by the limited permit holder, occupational therapy student, or aide. It is the responsibility of the licensed supervisor to ensure that the limited permit holder, occupational therapy student, or aide does not perform duties for which he or she is not trained. The supervising licensed occupational therapist or licensed occupational therapy assistant shall be physically present when the limited permit holder, occupational therapy student, or aide is performing the patient or consumer service. An occupational therapist practicing under a limited permit shall be supervised by a licensed occupational therapist.

2.8. "Educator" means a person engaged in the teaching of occupational therapy within an accredited and/or approved educational program of occupational therapy.

2.9. "Examination" means the certification examination administered by the NBCOT.

2.10. "General Supervision" means initial direction, periodic inspection of service delivery, periodic meetings to review the outcome of service delivery, and the personal and direct involvement of the supervisor in the certified occupational therapy assistant's professional experience which includes evaluation of his or her performance. The supervisor need not be present or on the premises at all times where the licensed certified occupational therapy assistant is performing the professional services.

2.11. "In Collaboration With" means a formal working relationship in which there is regular consultation.

2.12. "Informed Consumer" means any person upon whom occupational therapy services are performed and who has been informed as to the professional competence of the individual performing the said services, i.e., a licensed occupational therapist, licensed occupational therapy assistant, occupational therapy aide, occupational therapy student or intern. Upon the consumer's request the licensee shall produce his or her license for the customer's review.

2.13. "License" means a valid and current certificate of registration issued by the West Virginia Board of Occupational Therapy.

2.14. "Limited Permit" means a time limited permit issued to a person upon determination by the Board that all requirements for licensure have been met except for the examination.

2.15. "NBCOT" means the National Board for Certification in Occupational Therapy.

2.16. "Occupational Therapist" means a person licensed to practice occupational therapy and whose license is in good standing.

2.17. "Occupational Therapy" means the evaluation, treatment and aid in diagnosis of problems interfering with functional performance in persons impaired by physical illness or injury, emotional disorder, congenital or developmental disability or the aging process in order to achieve optimum functioning and for prevention and health maintenance. Specific occupational therapy services include, but are not limited to: activities of daily living (ADL); the design, fabrication and application of splints; sensory motor activities; the use of specifically designed crafts; guidance in the selection and use of adaptive equipment; therapeutic activities to enhance functional performance; prevocational evaluation and training; and consultation concerning the adaptation of physical environments for the handicapped. These services are provided to individuals or groups through medical, health, educational and social systems and for the maintenance of health through these systems.

2.18. "Occupational Therapy Aide" means a person who assists in the practice of occupational therapy, who works under the direct supervision of a licensed occupational therapist or licensed occupational therapy assistant and whose activities require an understanding of occupational therapy, but do not require professional or advanced training in the basic anatomical, biological, psychological and social sciences involved in the practice of occupational therapy.

2.19. "Occupational Therapy Assistant" means a person licensed to assist in the practice of occupational therapy under the general supervision of the licensed occupational therapist and whose license is in good standing.

2.20. "Periodic Meetings To Review" means the supervising licensed occupational therapist consulting with the licensed occupational therapy assistant to review the outcome of service delivery. The supervising licensed occupational therapist and the licensed occupational therapy assistant shall meet at least monthly or more depending on the type of setting and patient needs.

2.21. "Proof of Current Licensure" means a current certification number as assigned by the NBCOT, or a license number from another state, territory of the United States or the District of Columbia.

2.22. "Referral" means a documented order must be obtained from a licensed physician or surgeon, psychologist or psychiatrist, dentist, osteopathic physician or surgeon or chiroprapist or podiatrist prior to initiating occupational therapy treatment.

§13-1-3. Powers and Duties of the Board.

3.1. The Board shall meet a minimum of two (2) times a year with the first meeting to be held during the month of January in order to elect a Chairperson and Secretary/Treasurer.

3.2. In order for the business of the Board to be legally conducted a majority of the members of the Board shall be present to constitute a quorum.

3.3. The Board may reimburse its Board membership for all reasonable and necessary expenses actually incurred in the performance of their duties.

3.4. The Board may also pay its Board members reasonable compensation not to exceed one hundred dollars (\$100.00) per day for days spent in performing Board duties.

3.5. Board appointments are made in accordance with W. Va. Code §30-28-5.

§13-1-4. Duties of the Chairperson.

4.1. The Board shall elect a Chairperson from its membership.

4.2. The Chairperson shall designate the time and place of meetings on his or her own authority or at the direction of at least three (3) Board members.

4.3. The Chairperson shall preside at all meetings. If the chairperson cannot attend a meeting, the Secretary/Treasurer shall preside at that meeting.

4.4. The Chairperson shall exercise general supervision of the affairs of the Board and shall have the usual powers of the office and such other powers and duties as the Board directs.

4.5. The Chairperson shall prepare an agenda for each meeting.

§13-1-5. Duties of the Secretary/Treasurer.

5.1. The Board shall elect a Secretary/Treasurer from its membership.

5.2. The Secretary/Treasurer shall assist the Chairperson at his or her request, shall preside over all meetings in the absence of the Chairperson and shall assume the responsibilities of the Chairperson in cases of extended illness or long absences from Board meetings. In the event the Secretary/Treasurer assumes the functions of the Chairperson, another member of the Board shall temporarily assume the responsibilities of the Secretary/Treasurer.

5.3. The Secretary/Treasurer shall keep the minutes of the proceedings of the Board's meetings and the records of the Board.

5.4. The Secretary/Treasurer shall be bonded and have custody of all fees received by the Board and is responsible for the transfer of the funds to the State Treasurer. The State Treasurer shall credit moneys to the account of the Board.

5.5. The Secretary/Treasurer, with the advice and consent of the Board, or pursuant to ratification by the Board, is authorized to spend moneys for the necessary expenses of the Board.

5.6. The Secretary/Treasurer shall prepare and submit upon Board approval an annual report to the Governor in accordance with W. Va. Code §30-28-6.

5.7. The Secretary/Treasurer is responsible for the preparation and submission of the annual budget to the Board.

5.8. The Secretary/Treasurer shall maintain an accurate list of licensees with current names, addresses, and dates of birth.

5.9. The Secretary/Treasurer shall maintain a list of accredited and approved occupational therapy educational programs and shall make this list available upon request.

5.10. The Secretary/Treasurer shall notify the members of the Board in writing two (2) weeks prior to a regular meeting regarding the time and place of the meeting. The Secretary/Treasurer shall notify members of special or emergency meetings by telephone and by publication in the West Virginia Register.

§13-1-6. Executive Director or Executive Secretary.

In an effort to assist the Board of Occupational Therapists with the day-to-day functions and operations, the Board may select a person to fill the position of Executive Director or Executive Secretary.

§13-1-7. Application for Licenses and Limited Permits.

7.1. The Board shall furnish the necessary forms, a copy of the rules pertaining to the licensing of occupational therapists and any other information or questionnaires as the Board considers desirable to any person requesting in writing an application for a license or limited permit.

7.2. The applicant shall complete the application forms to provide the information necessary to satisfy the Board that all requirements pertaining to W. Va. Code §30-28-1 et seq. are being met. The Board may reject

the application of an applicant who fails to provide all relevant information with regard to completing the application and may return the application to the applicant.

7.3. The applicant shall sign his or her application. An application for a limited permit and licensure as an occupational therapy assistant shall be signed by the applicant's supervising practitioner. In the event the applicant is not employed, the application shall be signed by the applicant and sworn by him or her before a notary public.

7.4. The application shall be accompanied by a money order or certified check to cover appropriate fees.

7.5. If any person knowingly furnishes false information in an application, the Board shall deny the applicant a license. If the applicant has already been licensed before the falsification of the information has been made known to the Board, the Board may suspend or revoke the license or limited permit. In addition, a person who knowingly gives false information in making application for an occupational therapy license or limited permit is subject to the penalties provided in W. Va. Code §30-28-17.

7.6. Each applicant for licensure shall be tested by the NBCOT by a written examination unless the applicant is eligible for an exemption as provided for in W. Va. Code §30-28-10.

§13-1-8. Examination Process.

The examination process will be in accordance with regulations set forth by the NBCOT.

§13-1-9. Issuance of Licenses and Limited Permits.

9.1. The Board shall issue a license or limited permit to each applicant in a timely manner upon receipt of a properly completed application and payment of the appropriate fee if the applicant:

9.1.a. Is of good moral character;

9.1.b. Has completed four (4) years of high school education or its equivalent;

9.1.c. Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the Board as described in W. Va. Code §30-28-8;

9.1.d. Has successfully completed a period of supervised field work experience at a recognized educational institution where he or she met the academic requirements as described by W. Va. Code §30-28-8; and

9.1.e. Has passed an examination conducted by the NBCOT as provided in section 8 of this rule.

9.2. The Board shall issue a limited permit to persons within the following eligibility classifications:

9.2.a. To those persons who are occupational therapy assistants or who are graduates of occupational therapy programs recognized by the NBCOT which are located within the United States of America excluding those schools or programs offered within any of the several territories or possessions of the United States and who are registered to take the next qualifying exam.

9.2.a.1. The limited permit for this classification is valid until the date on which the results of the next qualifying examination have been made public.

9.2.b. To those persons who are graduates of academic programs recognized by the Board which are located within either the territories and possessions of the United States or persons who graduated as occupational therapists or occupational therapy assistants from an occupational therapy curriculum of a foreign country and who meet the criterion established by the NBCOT.

9.2.b.1. The limited permit for this classification is valid for one (1) year or until eligibility to sit for the certification exam is withdrawn or the results of the certification exam have been made public.

9.2.b.2. A limited permit within this classification becomes null and void if the holder fails to pass the qualifying examinations.

9.3. The occupational therapist who has been issued a limited permit shall practice under the direct supervision of a licensed occupational therapist.

9.4. The occupational therapy assistant who has been issued a limited permit shall practice under the direct supervision of a licensed certified occupational therapy assistant with at least one (1) year of experience or a licensed occupational therapist.

§13-1-10. Exemptions.

10.1. The Board shall waive the examination and grant a license to any person certified prior to July 1, 1978, as an occupational therapist or as a certified occupational therapy assistant by the American Occupational Therapy Association. The Board shall waive the examination and grant a license to any person so certified after the effective date of this rule, if the Board considers the requirements for the certification to be equivalent to the requirements for licensure in this rule.

10.2. The following persons are not required to obtain a license in accordance with the provisions of this rule:

10.2.a. Any person associated with a licensed occupational therapist who is the process of completing a period of supervised field work experience at a recognized educational institution or a training program approved by the educational institution where he or she has met the academic requirements;

10.2.b. Any person not licensed in West Virginia who performs the occupational therapy services for not more than ninety (90) consecutive days in a calendar year, if the person is licensed to practice occupational therapy under the law of another state which has licensure requirements equivalent to West Virginia and if that person meets the requirements for certification as an occupational therapist (O.T.R.) or a certified occupational therapy assistant (C.O.T.A.) established by the NBCOT.

§13-1-11. Renewal.

11.1. A licensee shall apply to the Board for renewal of his or her license by December 31 of the current calendar year on forms provided by the Board.

11.2. Applications for late renewal of a license shall be accompanied by the late renewal fee and must be received by the Board before February 1 of the current licensing year.

11.3. The license renewal sent to the license holder shall be accompanied by two (2) wallet-sized cards, one (1) of which the licensee is to place in the lower left hand corner with his or her license.

§13-1-12. Continuing Competency Requirements for Renewal of License.

12.1. When a licensee applies for the renewal of a license, that licensee shall certify to the Board his or her involvement in continuing professional competency activities in occupational therapy theory and practice and provide documentation to that effect upon the Board's request.

12.2. This section applies to all occupational therapists and occupational therapy assistants seeking to renew their licensure in West Virginia.

12.3. The objectives of the requirements of this section:

12.3.a. Maintenance of professional competency; and

12.3.b. Improvement of professional skills.

12.4. Unit Requirements.

12.4.a. Definition of Contact Hour.

12.4.a.1. "Contact hour" means 1 hour spent in a continuing education activity that meets the requirements of the Board and is approved as outlined in this section. It excludes refreshment breaks, receptions, other social gatherings, and meals that do not include an acceptable educational activity.

12.4.b. Each licensee shall:

12.4.b.1. Certify a minimum of 12 contact hours of continuing competency activities obtained within the 1 year period preceding the application for renewal or reinstatement; and

12.4.b.2. Provide the necessary documentation to the Board upon its request.

12.4.c. Exceptions.

Licensees who have not been licensed for the entire 1 year period preceding license renewal, are not subject to the continuing competency requirements in subdivision 12.4.b. of this rule.

12.4.d. Time Frame.

12.4.d.1. A license to practice occupational therapy is valid for a 1 year period.

12.4.d.2. A licensee may carryover up to 6 excess contact hours from one consecutive licensure year to another.

12.5. Approval of Continuing Education Programs.

12.5.a. It is the responsibility of the licensee to assure that the selected courses meet his or her individual needs to maintain knowledge of theory and practice in accordance with continuing competency options as outlined in W. Va. Code §13-12-7.

12.5.b. Licensees shall obtain a certificate of completion from providers of continuing education specifying the following information:

- 12.5.b.1. The dates of completion;
- 12.5.b.2. The title and location of the course;
- 12.5.b.3. The name of participant;
- 12.5.b.4. The name of provider;
- 12.5.b.5. The number of contact hours; and
- 12.5.b.6. The signature of the provider.

12.6. Documentation of Continuing Competency Activities.

12.6.a. At the time of licensure renewal, a licensee who has completed the continuing competency requirement shall sign the licensure renewal form attesting to completion of the required contact hours.

12.6.b. A licensee is subject to and shall be prepared for a continuing competency audit by the Board.

12.6.c. A licensee shall retain continuing competency supporting documents for a period of 2 years after the date of renewal for inspection by the Board.

12.6.d. The Board shall audit the continuing competency records of the number of licensees that time and resources allow.

12.6.e. The Board shall notify licensees being audited. The licensee being audited shall submit to the Board a response to the requirement for audit along with an official acknowledgment of successful completion of continuing competency requirements, such as certificates of completion awarded by the approved providers.

12.6.f. The Board may take formal disciplinary action if a licensee submits any false statement regarding continuing competency.

12.6.g. The Board may suspend or revoke the license of any licensee who fails to substantiate contact hours.

12.7. Approved Continuing Competency Options.

12.7.a. Licensees may accrue continuing competency points by their involvement in various types of programs which are recognized by the Board as contributing to the development of professionals and updating competency in occupational therapy theory and practice.

12.7.b. A Licensee shall submit official acknowledgment of the successful completion of continuing competency requirements, such as copies of certificates of completion awarded by the providers of educational courses.

12.7.c. Required Activities:

12.7.c.1. A licensee may accumulate the total of 12 contact hours per renewal period through participation in the activities listed in this section.

12.7.c.2. The board suggests that licensees accumulate points from a broad scope and variety of activities.

12.7.c.3. Workshops, Seminars, Conferences.

12.7.c.3.A. A licensee may obtain credit by attending workshops, seminars, and conferences.

12.7.c.3.B. A licensee may earn 1 hour of continuing competency credit per hour of attendance at an approved workshop, seminar, or conference.

12.7.c.4. University, College, or Vocational Technical Adult Education Courses.

12.7.c.4.A. A licensee may obtain credit by successfully completing university, college, or vocational technical adult education courses related to the practice of occupational therapy.

12.7.c.4.B. A licensee may earn 3 hours of continuing competency credit per university, college, or vocational technical adult education credit hour earned.

12.7.c.5. Educational Telecommunication Network Courses.

12.7.c.5.A. A licensee may obtain credit by providing an outline or abstract of content from the course sponsor.

12.7.c.5.B. A licensee may earn 1 hour of continuing competency credit per hour of education by telecommunication network courses.

12.7.c.6. Videotaped Presentations of Educational Courses, Seminars, Workshops, and Conferences

12.7.c.6.A. A licensee may obtain credit by providing an outline or abstract of content from the course sponsor.

12.7.c.6.B. A licensee may earn 1 hour of continuing competency credit per hour of education by videotaped presentations of educational courses, seminars, workshops, or conferences.

12.7.c.7. In-service Training.

12.7.c.7.A. A licensee may obtain credit by providing an outline or abstract of content from the in-service sponsor.

12.7.c.7.B. A licensee may earn 1 hour of continuing competency credit per hour of education by in-service training.

12.7.c.8. Presentations by licensees of Occupational Therapy Education Programs, Workshops, Seminars, In-service Trainings, Conferences, or Guest Lectures within appropriate curriculums.

12.7.c.8.A. A licensee may obtain credit by making presentations which relate to the practice of occupational therapy to health or education professionals or students, or both.

12.7.c.8.B. A licensee may earn 2 hours of continuing competency credit for each 1 hour presentation to allow for credit for preparatory work. For example, a 1 hour presentation would qualify for 2 hours of continuing competency credit.

12.7.c.8.C. A licensee may not obtain continuing competency credit for subsequent presentations of the same content.

12.7.c.8.D. A licensee may earn up to 3 continuing competency credits for the review of proposals for conferences, workshops, seminars, or educational programs at .5 contact hour for each proposal reviewed and accepted.

12.7.c.9. Publications Published or Accepted for Publication.

12.7.c.9.A. A licensee may earn up to a maximum of 10 hours of continuing competency credit for authorship or editorship or co-authorship or co-editorship of a book relating to occupational therapy.

12.7.c.9.B. A licensee may earn up to a maximum of 5 hours of continuing competency credit for authorship or editorship or review of a chapter in a book or journal article appearing in a professional journal.

12.7.c.9.C. A licensee may earn up to a maximum of 3 hours of continuing competency credit for authorship of an article, book review, or abstract in a weekly periodical or professional newsletter.

12.7.c.9.D. A licensee may earn up to 6 hours of continuing competency credit through the development of other media such as videotapes, slide presentations, etc., that would be promoted for public or professional viewing.

12.7.c.10. Research Projects.

A licensee may earn up to a maximum of 6 hours of continuing competency credit per research project for work as project director, research assistant, principal, or co-investigator of a research project.

12.7.c.11. Quality Assurance or Program Evaluation Studies Completed and Published in a Journal or Newsletter.

A licensee may earn up to a maximum of 4 hours of continuing competency credit per study for quality assurance or program evaluation studies completed and published in a journal or newsletter.

12.7.c.12. Papers and Proposals for Conference Presentations.

A licensee may earn up to 2 hours of continuing competency credit for each accepted paper or proposal for conference presentation.

12.7.c.13. Formal Self-Study.

12.7.c.13.A. A licensee may earn continuing competency credit for completion of formal study packages related to the practice of occupational therapy and shall maintain a certificate of completion provided by the self-study sponsor.

12.7.c.13.B. A licensee may earn credit for completion of the American Occupational Therapy Association self-study series and shall maintain a certification of completion provided by the self-study sponsor.

12.7.c.13.C. A licensee may earn 9 contact hours for completion of each self-study course.

12.7.c.14. Informal Self-Study.

12.7.c.14.A. A licensee may earn continuing competency credit for completion of a combination of other activities and independent learning projects. These projects may include, but are not limited to, a combination of reading, observing other therapists, viewing videotape quality assurance or peer review studies, and related professional activities which enhance knowledge and skill in a specific area.

12.7.c.14.B. Credit is earned by maintaining a report of professional self-study. A licensee may earn .5 contact hours for each of these activities not to exceed 3 contact hours in a renewal period. A licensee shall maintain a detailed log of activity including the type, subject, and source of self-study.

12.7.c.15. Clinical Instruction of Occupational Therapy Students and Occupational Therapy Assistant Students.

12.7.c.15.A. A licensee may earn continuing competency credit for participation as a clinical instructor for fieldwork level 1 and level 2 students.

12.7.c.15.B. Only one licensee shall be awarded contact hours per student. The licensee who does the majority of actual supervision is eligible for the credit.

12.7.c.15.C. A licensee may earn 1 contact hour per student for clinical instruction of level 1 occupational therapist student and occupational therapy assistant students. A licensee may not earn more than 3 total contact hours in this category.

12.7.c.15.D. A licensee may earn 4 contact hours per student for clinical instruction of level 2 occupational therapist or occupational therapy assistant students. A licensee may not earn more than 8 total contact hours in this category.

12.8. Recency of Education.

12.8.a. When an applicant has chosen not to practice for any period of time, he or she is still obligated to maintain competency in occupational therapy knowledge, theory, and practice skills.

12.8.b. When an applicant applies for a license, reinstatement of a license, or renewal of a license and meets all requirements for licensure, reinstatement, or renewal, but has not been a practicing clinician within a period of 2 years, the Board shall request verification of the applicant's effort toward maintaining and updating occupational therapy continuing competency.

12.8.c. If the applicant has completed fewer than 24 hours of continuing competency contact hours within the 2 years preceding the application as required by this section, the Board has the sole discretion to determine the sufficiency of these efforts of the applicant and to decide whether additional continuing competency hours are required before granting the applicant a license.

§13-1-13. Responsibilities of the Licensee or Limited Permit Holder.

13.1. It is the responsibility of each licensee or limited permit holder engaged in the practice of occupational therapy to be familiar with the requirements of the law regulating those activities in West Virginia and with the rules of the Board.

13.2. It is the responsibility of each person engaged in occupational therapy to apply for licensure within thirty (30) days of employment in West Virginia or for a renewal of his or her license within thirty (30) days, to complete the forms properly and to pay the required fees. Any information or reminders which the Board may issue are courtesies and shall not diminish the responsibilities of the person engaged in the practice of occupational therapy.

13.3. Any occupational therapist licensed under the terms of W. Va. Code §30-28-6 may use the words "Occupational Therapist Registered," "Licensed Occupational Therapist," or "Occupational Therapist" or he or she may use the letters "O.T.R.," "L.O.T.," "O.T.," "L/OTR," or "OTR/L" in connection with his or her name or place of business.

13.4. Any Occupational therapy assistant licensed under the requirements of this rule may use the words "Certified Occupational Therapy Assistant," "Licensed Occupational Therapy Assistant," or "Occupational Therapy Assistant" or he or she may use the letters "C.O.T.A.," "L.O.T.A.," or "O.T.A.," "L/COTA," or "COTA/L" in connection with his or her name or place of business.

13.5. Any occupational therapist holding a limited permit may use the words "Occupational Therapist" or "Limited Permit Occupational Therapist" or he or she may use the letters "O.T.," "L.P.O.T.," or "O.T./L.P." in connection with his or her name or place of business.

13.6. Any occupational therapy assistant holding a limited permit may use the words "Occupational Therapy Assistant" or "Limited Permit Occupational Therapy Assistant" or he or she may use the letters "O.T.A.," "L.P.O.T.A.," or "O.T.A./L.P." in connection with his or her name or place of business.

§13-1-14. Display of License or Limited Permit.

14.1. Each licensee in this State shall prominently display at his or her principal place of employment his or her license or limited permit to practice occupational therapy and have in his or her possession his or her wallet-sized card.

14.2. A licensee shall exhibit the current licensure and/or renewal registration card when requested by the following:

- 14.2.a. A Board member;
- 14.2.b. An employee of the West Virginia Department of Health and Human Services;
- 14.2.c. Any person upon whom the licensee performs occupational therapy; or
- 14.2.d. An employer in whose employ the licensee practices or intends to practice occupational therapy.

14.3. A photocopy or other facsimile of a license or wallet-sized registration card shall not be accepted as adequate evidence that a person is licensed to practice occupational therapy. Where, for convenience or security, a photocopy or facsimile is displayed, the original document shall be readily available for review.

§13-1-15. Duplicate License.

15.1. In requesting a name change, the licensee shall return the current license to the Board with the required fee before the Board will issue a corrected license.

15.2. In requesting a duplicate license due to loss of license, the licensee shall complete a notarized statement substantiating the loss and submit it to the Board with the required fee before the Board will issue a duplicate license.

§13-1-16. Notice of Change of Address, Change of Name.

On forms provided by the Board, a licensee or holder of a limited permit shall notify the Board of any change of name or change of mailing address within thirty (30) days of the changed name or address.

§13-1-17. Fees Shall Be Collected and Determined by the Board for the Following (All Fees Are Non-Refundable):

- 17.1. Initial license fee:
 - 17.1.a. Registered Occupational Therapist a fee of one hundred ninety dollars (\$190.00); and
 - 17.1.b. Certified Occupational Therapy Assistant a fee of one hundred forty dollars (\$140.00).
- 17.2. Limited Permit fee (Limited Permit fee will be applied to permanent license fee):
 - 17.2.a. Occupational Therapist a fee of one hundred forty dollars (\$140.00); and
 - 17.2.b. Occupational Therapy Assistant a fee of ninety dollars (\$90.00).
- 17.3. Application packet a fee of fifteen dollars (\$15.00).
- 17.4. Renewal fee:

17.4.a. Registered Occupational Therapist a fee of sixty dollars (\$60.00); and

17.4.b. Certified Occupational Therapy Assistant a fee of fifty dollars (\$50.00).

17.5. Late renewal a fee of fifty dollars (\$50.00).

17.6. Other fees for services shall not exceed the actual cost of the services.

§13-1-18. Suspension, Revocation and Refusal to Renew License or Limited Permit.

18.1. After providing adequate notice and an opportunity for a hearing, the Board may deny, suspend, revoke or refuse to renew or impose probationary conditions upon any licensee or limited permit holder who is guilty of unprofessional conduct which may impair his or her ability to practice occupational therapy or which endangers or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes, but is not limited to:

18.1.a. Obtaining a license or limited permit by fraud, misrepresentation or concealment of material facts;

18.1.b. Being convicted of a felony or other crime involving moral turpitude that relates to the licensee's or permittee's ability to practice occupational therapy or immoral conduct while engaged in the practice of occupational therapy. Conduct rising to the level of immoral would be conduct that would lead, upon trial in any criminal court, state or federal, to the conviction of the accused;

18.1.c. Violating any lawful order or rule or regulation rendered or adopted by the Board;

18.1.d. Engaging in the practice of occupational therapy while in an intoxicated condition or under the influence of narcotics or any other drugs which impair consciousness, judgement or behavior;

18.1.e. Willful falsification, destruction or theft of property or records relating to the practice of occupational therapy or the health of the patient;

18.1.f. Failure to exercise due regard for the safety, the life or health of the patient;

18.1.g. Unauthorized disclosure of information relating to a patient or his or her records;

18.1.h. Discrimination in the practice of occupational therapy against any person for reason of race, religion, creed, color or national origin; or

18.1.i. Violating any provision of W. Va. Code §30-28-1 et seq.

18.2. The denial, refusal to renew, suspension, revocation or imposition of a probationary condition upon a license or limited permit may be ordered by the Board in a decision made after a hearing in the manner provided under Section 18 of this rule. One (1) year from the date of the revocation of a license or limited permit, the former licensee may apply to the Board for reinstatement.

§13-1-19. Hearing Procedures.

19.1. Hearings on any suspension of a license, revocation of a license or denial of an application for a license that is ordered by the Board and that is contested by the applicant or licensee shall be conducted according to W. Va. Code §30-28-14.

19.2. The applicant or licensee may be represented by counsel at the hearing; the Board shall be represented by the Attorney General or his or her assistants.

19.3. The technical rules of evidence may be dispensed with, with respect to hearings conducted by the Board; however, each party has the right to cross-examine any or all witnesses.

19.4. Any concurring or dissenting opinions of the Board members shall be in writing and accompany the Board's final order.

§13-1-20. Procedures For Judicial Review.

20.1. Any person adversely affected by a decision of the Board rendered after a hearing has the right to pursue judicial review as provided by W. Va. Code §29A-5-4.

20.2. The Board shall conduct hearings, shall employ a certified stenographer to record testimony of the hearings and shall keep the transcribed copy of the hearings in the permanent record.

6817

13-1

1 Bill-Occupat

H. B. 4189

2

(By Delegates Hunt, Linch, Compton, Jenkins,
Faircloth and Riggs)

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4

[Introduced January 30, 1998; referred to the
Committee on the Judiciary.]

5

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9

10 A BILL to amend article nine, chapter sixty-four of the
11 code of West Virginia, one thousand nine hundred
12 thirty-one, as amended, by adding thereto a new
13 section, designated section twenty, relating to
14 authorizing the board of occupational therapy to
15 promulgate a legislative rule relating to
16 administrative rules of the board.

17 *Be it enacted by the Legislature of West Virginia:*

18 That article nine, chapter sixty-four of the code of
19 West Virginia, one thousand nine hundred thirty-one, as
20 amended, be amended by adding thereto a new section,
21 designated section twenty, to read as follows:

22 **ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND**
23 **BOARDS TO PROMULGATE LEGISLATIVE RULES.**

4189

1 §64-9-29. Board of occupational therapy.

2 The legislative rule filed in the state register on
3 the first day of August, one thousand nine hundred
4 ninety-seven, authorized under the authority of section
5 six, article twenty-eight, chapter thirty, of this code,
6 modified by the board of occupational therapy to meet the
7 objections of the legislative rule-making review committee
8 and refiled in the state register on the eighth day of
9 December, one thousand nine hundred ninety-seven, relating
10 to the board of occupational therapy (administrative rules
11 of the board of occupational therapy, 13 CSR 1), is
12 authorized.

13

14 NOTE: The purpose of this bill is to authorize the
15 Board of Occupational Therapy to promulgate a legislative
16 rule relating to Administrative Rules of the Board.

17

18 This section is new; therefore, strike-throughs and
19 underscoring have been omitted.

Senate Bill No. 328

13-1

1 (By Senator(s) Ross, Anderson, Bowman,
2 Macnaughtan, Boley and Buckalew)

3 [Introduced January 30, 1998; referred to the
4 Committee on Health and Human Resources; and
5 then to the Committee on the Judiciary.]
6
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9

10 A BILL to amend article nine, chapter sixty-four of the
11 code of West Virginia, one thousand nine hundred
12 thirty-one, as amended, by adding thereto a new
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