

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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JUN 9 4 07 PM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: WEST VIRGINIA BOARD OF OCCUPATIONAL THERAPY TITLE NUMBER: 13

AMENDMENT TO AN EXISTING RULE: YES, NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: ADMINISTRATIVE 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) HB 100

SECTION 64-9-34, PASSED ON MAY 26, 1993

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: JUNE 9, 1993

Paul A. Ochs
PAUL A. OCHS, OTR/L, SECRETARY/TREASURER
744-6570

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help we can get)

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May 28, 1993

Paul A. Ochs
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P.O. Box 8750
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HB 100 authorizing, **Title 13, Series 1, Administrative Rules of the Board of Occupational Therapy**, passed the Legislature on **May 26, 1993**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs HB 100, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office. Authorization for your legislative rule is cited in **HB 100** section **64-9-34**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, PLEASE SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You
Administrative Law Division

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TITLE 13

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

LEGISLATIVE RULES

BOARD OF OCCUPATIONAL THERAPY

SERIES 1

ADMINISTRATIVE RULES OF THE BOARD

OF OCCUPATIONAL THERAPY

13-1-1. General.

1.1. Scope. ~~--These~~ This rules relates to ~~section one,~~
~~article twenty-eight, chapter thirty et seq. of the West Virginia~~
~~Code of 1931, as amended.~~ West Virginia Code §30-28-1 et seq.

1.2. Authority. --W.Va. Code §30-28-6

1.3. Filing Date. --~~December 30, 1982~~

1.4. Effective Date. --~~December 30, 1982~~

13-1-2. Definitions.

As used in ~~these regulations,~~ this rule:

2.1. "Association" means the West Virginia Occupational
Therapy Association.

2.2. ~~"Board" means the West Virginia Board of Occupational~~
~~Therapy.~~ "AOTCB" means the American Occupational Therapy
Certification Board.

2.3. ~~"License" means a valid and current certificate of~~

~~registration issued by the West Virginia Board of Occupational Therapy. "Board" means the West Virginia Board of Occupational Therapy.~~

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

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

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

2.7. ~~"Occupational Therapy Aide" means a person who assists in the practice of occupational therapy, who works under the direct supervision of 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.~~ "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.

~~2.8. "General Supervision" means initial direction, periodic inspection, periodic meetings to review, personal and direct involvement of the supervisor in the supervisee's professional experience which includes evaluation of his/her performance. The supervising occupational therapist need not be physically present or on the premises at all times where the certified occupational therapy assistant is performing the professional services.~~

"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.

~~2.9. "Direct Supervision" means the actual physical presence of a licensed occupational therapist or licensed occupational therapy assistant and the specific delineation of task and responsibilities by a licensee occupational therapist and shall include the responsibility for personally reviewing and interpreting the results of any habilitative or rehabilitative procedures conducted by the supervisee. It is the responsibility of the licensed occupational therapist to ensure that the aide does not perform duties for which he is not trained. The supervising licensed occupational therapist or licensed~~

~~occupational assistant must be physically present when the aide and/or limited permit holder is performing the patient/consumer service.~~ "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.

2.10. ~~"Active Practice" means engaging in occupational therapy.~~ "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 must be physically present when the limited permit holder, occupational therapy student, or aide is performing the patient/consumer service. An occupational therapist practicing under a limited permit must be supervised by a licensed occupational therapist.

2.11. ~~"Educator" means a person engaged in the teaching of~~

~~occupational therapy within an accredited and/or approved educational program of occupational therapy.~~ "Active Practice" means engaging in occupational therapy.

2.12. ~~"Clinician" means a person who actively practices occupational therapy within a clinical setting.~~ "Educator" means a person engaged in the teaching of occupational therapy within an accredited and/or approved educational program of occupational therapy.

2.13. ~~"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 services.~~ "Clinician" means a person who actively practices occupational therapy within a clinical setting.

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.~~ "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, the evaluation of a program in its performance of occupational therapy services and recommendations for improved service.

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

2.16. ~~"Referral" means prior to initiating occupational therapy treatment a written referral must be given by a licensed physician or surgeon, psychologist or psychiatrist, dentist, osteopathic physician or surgeon or chiropodist or podiatrist.~~
"In Collaboration With" means a formal working relationship in which there is regular consultation.

2.17. ~~"Proof of Current Licensure" means current certification number as assigned by the American Occupational Therapy Association, license number from another state, territory of the United States or the District of Columbia and three (3) notarized references from individuals who have knowledge of the therapist's professional training or experience during the last five (5) years.~~ "Referral" means a documented order must be obtained from a licensed physician or surgeon, psychologist or psychiatrist, dentist, osteopathic physician or surgeon or chiropodist or podiatrist prior to initiating occupational therapy treatment.

2.18. ~~"Periodic Meetings To Review" means meeting determined by type of setting and supervisee competency. Such meeting shall mean no less than monthly in the case of a licensed occupational therapist supervising a licensed occupational therapy assistant.~~
"Proof of Current Licensure" means a current certification number as assigned by the AOTCB, or a license number from another state, territory of the United States or the District of Columbia.

2.19. ~~"Continuing Professional Competence" means a growth in continuing professional competency and educational knowledge of~~

~~current developments in the practice of occupational therapy and research.~~ "Periodic Meetings To Review" means the supervising licensed occupational therapist consulting with the licensed occupational therapy assistant to review the outcome of service delivery. Frequency of meeting is determined by the type of setting and licensed occupational therapy assistant's competency level and no less than monthly.

2.20. ~~"Informed Consumer" means any person upon whom occupational therapy services are performed must be informed as to the professional competence of the individual performing 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 license must be shown.~~ "Continuing Professional Competence" means a growth in continuing professional competency and educational knowledge of current developments in the practice of occupational therapy and research.

2.21. ~~"Unprofessional Conduct" means, but shall not be limited to:~~

~~(a) 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, judgment, or behavior; or~~

~~(b) Immoral conduct while engaged in the practice of occupational therapy. The conduct rising to the level of immoral would be such conduct that would lead, upon trial in any criminal court, state, or federal, to the conviction of the accused; or~~

~~(c) Willful falsification, destruction or theft of property~~

~~or records relating to the practice of occupational therapy or health of the patient;~~

~~(d) Failure to exercise due regard for the safety of life or health of the patient; or~~

~~(e) Unauthorized disclosure of information relating to a patient or his records;~~

~~(f) Discrimination in the practice of occupational therapy against any person for reason of race, religion, creed, color or national origin.~~

"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 said the 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 license must be shown.

13-1-3. Powers and duties of the Board.

3.1. The Board shall meet a minimum of ~~at least~~ two (2) times a year with the first ~~meeting occurring 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 of Occupational Therapy to be legally conducted, a majority of the members of the Board must 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 membership reasonable compensation not to exceed fifty dollars (\$50.00) per day for days spent in performing Board duties.

~~3.5. Where a vacancy in the Board membership occurs, the remaining Board members shall appoint new members consistent with the eligibility requirements as set forth in section one, article twenty-eight, chapter thirty et seq., of the West Virginia Code of 1931, as amended. Board appointments are made in accordance with West Virginia Code §30-28-5.~~

13-1-4. Duties of the ~~Chairman~~ Chairperson.

4.1. ~~The position of Chairman shall be filled by election from within the membership of the Board. The Board shall elect a Chairman from its membership.~~

4.2. The ~~Chairman~~ 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 ~~Chairman~~ Chairperson shall preside at all meetings or, in the case of his or her inability to attend any meeting, the Secretary/Treasurer shall ~~serve for the~~ preside at that meeting.

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

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

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

5.1. ~~The position of Secretary/Treasurer will be filled by election from within the membership of the Board.~~ The Board shall elect a Secretary/Treasurer from its membership.

5.2. The Secretary/Treasurer shall assist the ~~Chairman~~ Chairperson at his or her request ~~and~~, shall preside over all meetings in the absence of the ~~Chairman~~ Chairperson, and shall assume the responsibilities of the ~~Chairman~~ Chairperson in cases of extended illness or long absences from Board meetings. In the event the Secretary/Treasurer assumes the functions of the ~~Chairman~~ Chairperson, another member of the Board will ~~assume temporarily~~ 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 ~~shall be~~ is responsible for the transfer of ~~such the~~ funds to the State Treasurer. ~~Said moneys received will be deposited and credited.~~ 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, ~~shall be~~ is authorized to spend moneys for the necessary expenses of the Board.

5.6. The Secretary/Treasurer shall ~~receive, accept responsibility for, issue (with Board approval) an account to the Auditor of the State of West Virginia all licenses and temporary~~

~~permits and keep duplicates of certificates handled by the Board.~~
prepare and submit upon Board approval an annual report to the
Governor in accordance with West Virginia Code §30-28-6.

5.7. The Secretary/Treasurer ~~shall be~~ is responsible ~~(with~~
~~the approval of the Board)~~ 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 and addresses.

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. ~~Notification~~ The
Secretary/Treasurer shall notify members of special or emergency
meetings ~~will be made by telephone and by the Secretary of State~~
publication in the West Virginia Register.

13-1-6. Executive Director.

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.

13-1-7. Application for licenses and ~~temporary limited~~ permits.

7.1. The Board shall furnish any person requesting in writing
an application for a license or ~~temporary limited~~ permit shall be
~~furnished~~ the necessary forms, a copy of the regulations

pertaining to the licensing of occupational therapists and ~~such~~
~~any~~ other information or questionnaires as the Board ~~may deem~~
considers desirable.

7.2. The applicant shall complete The application forms ~~shall~~
~~be completed~~ to provide the information necessary to satisfy the
Board that all requirements pertaining to the West Virginia Law
are being fulfilled. The failure to provide all relevant
information with regard to completing the application may be just
cause for rejection of the application by the Board and cause the
application to be returned to the applicant.

7.3. All applications shall be signed by the applicant, ~~and~~
~~by~~ Applications for limited permit and licensure as an
occupational therapy assistant shall be signed by his 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 ~~furnishing~~ furnishes false
information in ~~such an~~ application ~~shall be denied~~ the Board shall
deny the applicant a license or if the applicant has already been
licensed before the falsification of ~~such the~~ information has been
made known to the Board, ~~such the~~ the Board may suspend or revoke the
license or temporary limited permit shall be subject to suspension
or revocation. In addition, ~~the penalties pursuant to West~~
~~Virginia Code of 1931, as amended, section seventeen, article~~
~~twenty-eight, chapter thirty, may attach to one~~ a person who

knowingly gives false information in making application for an occupational therapy license or ~~temporary limited~~ permit. is subject to the penalties provided in West Virginia Code §30-28-17.

7.6. Each applicant for licensure shall be tested by ~~the Board AOTCB~~ by a written examination unless the applicant is eligible for an exemption as provided for in section ten, article twenty-eight, chapter thirty of the West Virginia Code of 1931, as amended. West Virginia Code §30-28-10.

7.7. Persons planning to sit for an examination shall ~~make application~~ apply to the ~~Board of Examiners AOTCB~~ at least thirty (30) days prior to the date of the examination on forms provided by the ~~Board AOTCB~~. However, for prompt notification by the ~~Board AOTCB~~ regarding whether an applicant is eligible to take the examination, the application should be submitted at least seventy (70) days prior to the examination date.

13-1-8. Examination process.

8.1. Examinations will be conducted twice yearly at a time and place determined by the ~~Board AOTCB~~.

8.2. The ~~Board AOTCB~~ shall give public notice of the examination at least ninety (90) days prior to the date of ~~said~~ the examination.

8.3. The ~~Board AOTCB~~ shall determine the cost of administering the examination and notify the ~~examinee~~ applicant of the examination fee upon his or her application for examination. ~~Such~~ The fee is non-refundable.

8.4. The Board approved examination is the certification

examination of the ~~American Occupational Therapy Association~~
AOTCB.

8.5. The ~~Board~~ AOTCB shall determine the passing grade of the examination.

8.6. ~~The examinee will be notified~~ The AOTCB will notify the applicant regarding the minimal score for passing as required by the AOTCB prior to ~~taking~~ the examination.

8.7. Following the testing of the ~~examinee~~ applicant the Board shall accept the examination results as provided by the ~~American Occupational Therapy Association~~ AOTCB and which shall determine which ~~examinees~~ applicants successfully passed the examination.

8.8. The ~~Board~~ AOTCB will ~~direct to the examinee his/her mail~~ the results by certified mail, return receipt requested, of the examination to the applicant.

~~8.9. The examinee, upon written request, will have the opportunity to review his examination paper with a member of the Board of Occupational Therapists.~~

13-1-9. Issuance of licenses and limited permits.

9.1. The Board ~~will strive to~~ shall ~~issue to each applicant a license~~ a license or limited permit to each applicant within thirty (30) days of in a timely manner upon receipt of a properly completed application and payment of the appropriate fee if the applicant:

- (a) Is of good moral character;
- (b) Has completed four (4) years of high school education or

its equivalent;

(c) Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the Board as described in ~~section eight, article twenty-eight, chapter thirty of the West Virginia Code of 1931, as amended; and~~ §30-28-8.

(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 ~~the West Virginia Code of 1931, as amended; or~~ §30-28-8.

~~(e) Has, as an alternative to subsection (c) of the section, practiced as an occupational therapy assistant for four (4) years and has successfully completed the supervised field work experience of subsection (d) of this section, and has passed the examination to be licensed as an occupational therapist; and~~

~~(fe) Has passed an examination conducted by the Board AOTCB as provided in section six, article twenty-eight, chapter thirty of the West Virginia Code of 1931, as amended. 8 of this rule.~~

9.2. An applicant who has practiced as an occupational therapy assistant for four (4) years and has successfully completed the supervised field work experience of subdivision (d), subsection 9.1, and has passed the examination to be licensed as an occupational therapist is exempt from subdivision (c) of subsection 9.1 of this rule.

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

~~(a)~~ (1) To those persons who are occupational therapy

assistants or who are graduates of occupational therapy programs recognized by the Board 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.

~~(b) (a) Said~~ The limited permit for this category classification will be is valid until the date on which the results of the next qualifying examination have been made public.

~~(e) (2)~~ 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.

~~(d) (a) A limited permit under this classification shall be valid for one (1) year at which time the holder shall apply to the Board for licensure.~~ The limited permit for this classification is valid for one (1) year or until the date on which the results of the qualifying examination taken by the applicant during the limited permit period have been made public.

~~(e) (b)~~ A limited permit within this ~~category shall classification~~ becomes null and void if the holder fails to pass the certification examination.

9.34. The ~~person~~ occupational therapist issued a limited permit must practice under the direct supervision of a licensed occupational therapist.

9.45. ~~A limited permit shall be valid for one (1) year or~~

~~until the date on which the results of the next qualifying examination have been made public. (At which time the holder shall apply to the Board for licensure. The occupational therapy assistant issued a limited permit can must practice under the direct supervision of a licensed certified occupational therapy assistant with at least one (1) year experience or a licensed occupational therapist.~~

~~13-1-10. Reciprocity.~~

~~10.1. Reciprocity will be considered with other states on an individual basis.~~

~~10.2. A license issued to an individual by another state will be honored in lieu of a license issued by the West Virginia Board of Occupational Therapy if the person so licensed has passed an examination in another state, territory of the United States or District of Columbia which is acceptable to the Board and equivalent to the requirements of this State.~~

~~10.3. The Board may waive the examination and grant a license to any applicant who presents proof of current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia or territory of the United States or proof of current certification number as assigned by the American Occupational Therapy Association.~~

~~10.4. A current photograph of the person seeking licensure by reciprocity with accompany the application.~~

~~10.5. Application forms for licensure by way of reciprocity shall include references from three (3) persons, two (2) of which will be from certified or licensed occupational therapists who~~

~~have knowledge of the applicant's professional training or experience during the last five (5) years.~~

~~10.6. All forms providing reference information supporting licensure by reciprocity shall be notarized and mailed to the Board by certified mail, return receipt requested.~~

~~13-1-11.~~ 13-1-10. Exemptions.

~~11~~ 10.1. The Board shall waive the examination and grant a license to any person certified prior to ~~the effective date of the West Virginia Occupational Therapy Practice Act, West Virginia Code section one, article twenty-eight, chapter thirty et seq., (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 ~~these~~ this Rules and Regulations, if the Board considers the requirements for ~~such~~ the certification to be equivalent to the requirements for licensure in ~~these~~ this Rules and Regulations.

~~11~~ 10.2. The following persons are not required to obtain a license in accordance with the provisions of ~~these regulations:~~ this rule:

(a) ~~Any person performing occupational therapy services in this State not licensed under this article, if such services are performed for no more than ninety (90) consecutive days a calendar year in association with an occupational therapist licensed under section one, article twenty-eight, chapter thirty et seq. of the~~

~~West Virginia Code of 1931, as amended, if such persons meets the qualification of licensure under section seven, article twenty-eight, chapter thirty of the West Virginia Code of 1931, as amended, except for the qualifying examination; or Any person in the process of completing in association with an occupational therapist licensed under West Virginia Code §30-28-1 et seq. 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.~~

(b) Any person performing occupational therapy services in this State not licensed in West Virginia, but who performs ~~such the~~ occupational therapy services for not more than ~~one hundred eighty (180)~~ ninety (90) consecutive days in a calendar year, if ~~such the~~ person is licensed to practice occupational therapy under the law of another state which has licensure requirements equivalent to West Virginia or if ~~such 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 ~~American Occupational Therapy Association.~~ AOTCB.

~~13-1-12.~~ 13-1-11. Renewal.

~~12-11.1.~~ A licensee shall apply to the Board for renewal of the his or her license shall be received by the Board by December 31 of the current calendar year on forms provided by the Board.

~~12~~ 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 ~~July~~ February 1 of the current licensing year.

~~12~~ 11.3. The license renewal sent to the licensee ~~holder~~ will be accompanied by two (2) wallet-sized cards, one (1) of which is to be placed in the lower left hand corner with his or her license.

~~13~~ ~~1-13.~~ 13-1-12. Responsibilities of the licensee, or limited permit holder.

~~13~~ 12.1. It ~~shall be~~ is the responsibility of each ~~person~~ licensee or limited permit holder engaged in the practice of occupational therapy to be familiar with the requirements of the law regulating ~~such~~ those activities in West Virginia and with the ~~regulations of this rules of the Board.~~

~~13~~ 12.2. It ~~shall be~~ is the responsibility of each person engaged in occupational therapy to ~~make timely, application~~ apply for licensure within thirty (30) days of employment in West Virginia or for renewal of license within thirty (30) days, to complete ~~such~~ the forms properly and to pay the fees required, and to ~~hold himself~~ be available for examination at the times and places designated by the Board. Any information or reminders which the Board may issue ~~shall be regarded as~~ are courtesies and shall not diminish the responsibilities of the person engaged in the practice of occupational therapy.

~~13~~ 12.3. Any ~~person~~ occupational therapist licensed under the terms of ~~this article~~ West Virginia 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~~ 12.4. Any person occupational therapy assistant licensed under the requirements of these this rules and regulations shall may use the words "Certified Occupational Therapy Assistant", "Licensed Occupational Therapy Assistant", or "Occupational Therapy Assistant", or ~~shall~~ he or she may use the letters "C.O.T.A.", "L.O.T.A.", "O.T.A.", ~~or "L/OTA"~~ "L/COTA", or "COTA/L" in connection with his or her name or place of business.

12.5. 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.

12.6. 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.~~ 13-1-13. Display of license or temporary limited permit.

~~14~~ 13.1. Each person entitled to engage in the practice of occupational therapy licensee in this State shall prominently display at his or her principal place of employment his or her license or temporary limited permit to practice occupational

therapy and have in his or her possession his or her wallet-sized card.

~~14~~ 13.2. A licensee shall exhibit the current licensure and/or renewal registration card ~~shall be exhibited~~ when requested by ~~and of~~ the following:

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

~~14~~ 13.3. An employer, Board member or employee of the Occupational Therapy Program shall not accept a photocopy or other facsimile of a license or wallet-sized registration card 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.

13-1-14. Duplicate License.

~~15~~ 14.1. In requesting a name ~~or address~~ change, the licensee must return the current license ~~must be returned~~ to the Board with the required fee prior to issuance of a corrected license.

~~15~~ 14.2. In requesting a duplicate license due to loss of license, the licensee must complete a notarized statement substantiating the loss ~~must be completed~~ and ~~submitted~~ it to the

Board with the required fee prior to issuance of a duplicate license.

~~13-1-16.~~ 13-1-15. 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. Schedule of fees for services rendered by the West-Virginia Occupational Therapy Board of Examiners.~~

~~17.1. License Fee~~

~~O.T.R.....\$75.00~~

~~C.O.T.A....\$50.00~~

~~17.2. License Renewal Fee~~

~~O.T.R.....\$25.00~~

~~C.O.T.A....\$15.00~~

~~17.3. Temporary Permit Fee~~

~~O.T.R.....\$50.00~~

~~C.O.T.A....\$50.00~~

~~17.4. Late Renewal Fee~~

~~O.T.R.....\$35.00~~

~~C.O.T.A....\$25.00~~

~~17.5. Reciprocity Fee.....\$75.00~~

~~17.6. Duplicate License (Card)....\$ 5.00~~

~~17.7. Examination Fee.....\$50.00~~

~~17.8. Change of Name or Address...\$15.00~~

~~17.9. Rules and Regulations~~

~~13-1-17.~~ 13-1-16. Fees shall be collected and determined by the Board for the following (all fees are non-refundable):

~~All of the above fees are non-refundable.~~

16.1. Initial license fee:

(a) Registered Occupational Therapist a fee not to exceed two hundred dollars (\$200); and

(b) Certified Occupational Therapy Assistant a fee not to exceed one hundred and fifty dollars (\$150).

16.2. Limited Permit fee (Limited Permit fee will be applied to permanent license fee):

(a) Registered Occupational Therapist a fee not to exceed one hundred and fifty dollars (\$150); and

(b) Certified Occupational Therapy Assistant a fee not to exceed one hundred dollars (\$100).

16.3. Application packet fee, not to exceed fifteen dollars (\$15).

16.4. Renewal fee:

(a) Registered Occupational Therapist a fee not to exceed seventy-five dollars (\$75); and

(b) Certified Occupational Therapy Assistant a fee not to exceed sixty dollars (\$60).

16.5. Late renewal fees, not to exceed fifty dollars (\$50).

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

~~13-1-18.~~ 13-1-17. Suspension, revocation and refusal to renew license or limited permit.

~~18~~ 17.1. (a) After providing adequate notice and an opportunity for a hearing, the Board ~~is empowered to~~ may deny, suspend, revoke or refuse to renew or impose probationary conditions upon any licensee or limited permit holder who ~~has been~~ is guilty of unprofessional conduct which ~~has endangered~~ 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:

~~18.2. Such unprofessional conduct includes:~~

~~(a)~~ (1) Obtaining a license or limited permit by fraud, misrepresentation or concealment of material facts;

~~(b)~~ (2) 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;

~~(c)~~ (3) Violating any lawful order, rule or regulation rendered or adopted by the Board; ~~or~~

(4) 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;

(5) Willful falsification, destruction or theft of property or records relating to the practice of occupational therapy or the health of the patient;

(6) Failure to exercise due regard for the safety of life or health of the patient;

(7) Unauthorized disclosure of information relating to a patient or his records;

(8) Discrimination in the practice of occupational therapy against any person for reason of race, religion, creed, color or national origin; or

~~(d)~~ (9) Violating any provision of ~~the article,~~ West Virginia Code §30-28-1 et seq.

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

~~13-1-19.~~ 13-1-18. Hearing procedures.

~~19-18.1.~~ Hearings on any suspension, revocation 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 West Virginia Code §30-28-14.

~~19~~ 18.2. 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. ~~Special counsel may be appointed to aid the Board in its ruling on the admission of evidence.~~

~~19~~ 18.3. The technical rules of evidence may be dispensed with, with respect to hearings conducted by the Board; however, each party ~~shall have~~ has the right to cross-examine any or all witnesses.

~~19~~ 18.4. Any concurring or dissenting opinions of the Board members shall be in writing and accompany the Board's final order, ~~as outlined in Code.~~

~~13-1-20.~~ 13-1-19. Procedures for judicial review.

~~20~~ 19.1. Any person adversely affected by a decision of the Board rendered after a hearing ~~shall have~~ has the right to pursue judicial review as provided by ~~section four, article five, chapter twenty-nine-a of the~~ West Virginia Code §29A-5-4 ~~of 1931, as amended.~~

~~20~~ 19.2. 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.

1 The legislative rules filed in the state register on the
2 eleventh day of September, one thousand nine hundred ninety-two,
3 modified by the board of occupational therapy to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the first day of February, one
6 thousand nine hundred ninety-three, relating to the board of
7 occupational therapy (administrative rules of the board of
8 occupational therapy), are authorized.

9

10 NOTE: The purpose of this bill is to authorize the Board of
11 Occupational Therapy to promulgate legislative rules relating to
12 the administration of the Board.

13

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

SENATE BILL NO. 240

(By Senator Manchin

[Introduced March 1, 1969; referred to the
Committee on Government Organization; and then
to the Committee on the Judiciary.]

1
2
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9
10 A BILL to amend article nine, chapter sixty-four of the code of
11 West Virginia, one thousand nine hundred thirty-one, as
12 amended, by adding thereto a new section, designated section
13 thirty-four, relating to authorizing the board of
14 occupational therapy to promulgate legislative rules relating
15 to the administration of the board.

16 Be it enacted by the Legislature of West Virginia:

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

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

23 §64-9-34. Board of occupational therapy.

RECEIVED JUL 0 1 1993



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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

JUL 13 8 43 AM '93

FILED

TO: Paul Ochs

AGENCY: Occupational Therapy

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: June 29, 1993

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 1 TITLE: 13 Occupational Therapy

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED. ~~THE~~ AED

SIGNED: [Signature]

TITLE OF PERSON SIGNING: SECRETARY / TREASURER WVAOT

DATE: 7/2/93

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.