

**WEST VIRGINIA  
SECRETARY OF STATE  
BETTY IRELAND  
ADMINISTRATIVE LAW DIVISION**

Form #7

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2005 JUL -5 A 10: 16

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

Effective Date

**NOTICE OF AN EMERGENCY RULE**

AGENCY: West Virginia Board of Occupational Therapy TITLE NUMBER: 13

CITE AUTHORITY: W.Va Code §30-28-6

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 1

TITLE OF RULE BEING AMENDED: Administrative Rules of the Board of Occupational Therapy and  
Licensure for Occupational Therapists and Occupational  
Therapy Assistants.

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

The WV BOT is a solely funded agency. We are currently not meeting our budgetary needs. Due to increased operating expenses because of hearings, disciplinary actions, Attorney General fees, office expenses, unemployment fees, etc., the board feels it is necessary to raise the fees for licensure of Occupational Therapists (OT) and Occupational Therapy Assistants (OTA). Since this is our only source of income, we would like to raise the fees before October 2005 so that they [the fees] can apply for renewals of next year

Use additional sheets if necessary

  
Authorized Signature

**EMERGENCY RULE QUESTIONNAIRE**

DATE: July 1, 2005

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Board of Occupational Therapy  
3041 University Avenue, 2nd Floor, Suite 6  
Morgantown, WV 26505  
304-285-3150  
\*Please note new address and phone number

EMERGENCY RULE TITLE: Title 13

1. Date of filing May 19, 2005 (original filing)

2. Statutory authority for promulgating emergency rule:  
\_\_\_\_\_  
\_\_\_\_\_

3. Date of filing of proposed legislative rule: June 24, 2005 (agency approved rule changes)

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? Yes  
\_\_\_\_\_  
\_\_\_\_\_

5. Has the same or similar emergency rule previously been filed and expired?  
No  
\_\_\_\_\_

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.  
~~This rule change is vital to the WV BOT because without raising the fees the Board will not be able to operate, which will affect OT/OTA's and the public who need these services. The WV BOT is a solely funded agency. We are currently not meeting our budgetary needs. Due to increased operating expenses because of hearings, disciplinary actions, Attorney fees, offices expenses, and unemployment fees the board feels it is necessary to raise the fees for licensure of OT/OTA's. The Board would like to raise the fees before October 2005 so that they [the fees] can apply for renewals of next year.~~

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

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8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

~~The main objective of the WVBOT is to protect the consumers of OT and OT/OTA's~~ against unethical services of Occupational Therapy and malpractice issues. OT and OTA's must have a license to practice in the state of West Virginia. Without a licensing board, West Virginians would not have access to OT services. It is very important that our fees are raised so that we can function as a Board should. Also, many OT/OTA's are having problems understanding the supervision laws, so the Board has revised and better defined these laws to protect the OT/OTA's against disciplinary actions.





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

**TO:** Secretary of State and the LRMRC

**FROM:** West Virginia Board of Occupational Therapy

**DATE:** May 17, 2005

**RE:** Brief Summary and Circumstances of changes of Title 13

**To Whom It May Concern:**

The Board of Occupational Therapy is in the process of changing the Title 13 Legislative Rule; Series 1, Administrative Rules of the Board of Occupational Therapy and Licensure of Occupational Therapists and Occupational Therapy Assistants. Below are the changes the Board would like to propose along with the circumstances which require this rule.

- 1.) For the best interest of Licensed Occupational Therapists (OT/L) and Licensed Occupational Therapy Assistants (OTA/L) we would like to better clarify the supervision definitions, §13-2-1. This will eliminate confusion with OT/L, OTA/L and their employers.
- 2.) The Board has had many problems with OT and OTA's that are licensed in another state working in West Virginia. The exemption definitions in §13-1-10 need to be more specific so that OT/L and OTA/L understand that they must have permission from the West Virginia Board of Occupational Therapy before working in West Virginia. There has also been negligence on the OT/L and OTA/L with turning in their paperwork. The Board feels that the best way to eliminate this problem would be to shorten the deadline for paperwork to be turned in.
- 3.) The Board feels that it is necessary to raise the fees for licensure due to the rise in the economy and to pay for the hearing fees, unemployment fees, lawsuits, and lawyer fees that the Board has accrued. The Board has done research with other State Boards of Occupational Therapy and we feel that these new fees are very reasonable.

Thank you for taking the time to look over this information. Feel free to contact the office with any question regarding this rule change.

Sincerely,

*Diana L. Harris*

Diana L. Harris  
Executive Secretary

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Title 13, Series 1

Type of Rule:  Legislative  Interpretive  Procedural

Agency: West Virginia Board of Occupational Therapy

Address: 3041 University Avenue  
2nd Floor, Suite 6  
Morgantown, WV 26505  
\*Please note new address

Phone Number: 304-285-3150 Email: dianaharris@wvbot.org

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

These changes will not effect the revenues of state government because we are a self-funded board.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	2005 Increase/Decrease (use "-")	2006 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Equipment	0.00	0.00	0.00
Other	0.00	0.00	0.00
<b>2. Estimated Total Revenues</b>	0.00	0.00	0.00

Rule Title:

Title 13, Series 1

3. **Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

### MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

Although the Board is a state entity, its funding source is solely generated from fees paid by licensees.

Date: June 23, 2005

Signature of Agency Head or Authorized Representative

Diane Thomas

TITLE 13  
LEGISLATIVE RULE  
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. -- ~~April 17, 1998~~
- 1.4. Effective Date. -- ~~July 1, 1998~~

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**§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 which is separate from the West Virginia Board of Occupational Therapy, (WVBOT).
- 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. The Board has the right to issue Direct Supervision on any licensee under disciplinary actions. 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. Direct supervision is demonstrated through co-signatures on all paperwork of the person requiring direct supervision. All paperwork must be signed and dated by the supervising licensed occupational therapist. Direct supervision has two categories: direct continuous supervision and direct close supervision.

2.7.a. "Direct Continuous Supervision" is the direct and continuous supervision that applies to aides. This means that the Occupational Therapy supervisor is physically present and in direct line of site of aides. For an aide, client related tasks must be performed only if the aide has completed specific competency training which has been adequately provided and documented by a supervising therapist. For occupational therapy students, direct continuous supervision is required. This means that the occupational therapy supervisor is physically present and in direct line of site of students. As the occupational therapy student demonstrates competency in performance, supervision can progress to direct close supervision at the discrepancy of the supervising Occupational Therapist/Occupational Therapy Assistant. For licensees under disciplinary action per WVOT direct continuous supervision is required and upon Board approval can progress to direct close supervision.

2.7.b. "Direct Close Supervision" means the Occupational Therapy supervisor is in the building and has daily direct contact at the site of work. This applies to limited permit holders, occupational therapy students who have demonstrated competency in performance and licensees under disciplinary action per WVOT.

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 licensed occupational therapy assistant's professional experience which includes can also include evaluation of his or her performance. The supervisor need not be present or on the premises at all times where the certified licensed occupational therapy assistant is performing the professional services. For an Occupational Therapy Assistant with less than one year's experience, general supervision means direct contact at least every two weeks at the site of work with supervision as needed such as telephonic, electronic, or written communication. For a licensed Occupational Therapy Assistant with increased skill development and mastery of basic role functions for the delivery of occupational therapy services, general supervision means at least monthly direct contact with supervision available as need by telephonic, electronic, or written communication. General Supervision is demonstrated through co-signatures on all paperwork of the person requiring general supervision. All paperwork must be signed and dated by the supervising licensed occupational therapist.

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 continuous 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, physician assistant or nurse practitioner practicing under a licensed physician, optometrist or chiropractor 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 members 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~~ for time spent 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 or occupational therapy assistants 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~~ requirements 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~~ accredited by the ACOTE 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.~~ for ninety (90) days from date of issuance of the limited permit.

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.~~ ninety (90) days from the date of issuance of the limited permit.

9.2.b.2. A limited permit within this classification becomes null and void if the holder fails to pass the qualifying examinations. Upon the finding of failure the limited permit holder must stop practicing occupational therapy immediately.

9.3. The occupational therapist who has been issued a limited permit shall practice under the direct close 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~~ an occupational therapy student 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 who has an occupational therapist/occupational therapy assistant license from another state and is in good standing and who is not licensed in West Virginia who performs the occupational therapy services for not more than ~~ninety (90)~~ thirty (30) 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 a~~ a licensed occupational therapist (O.T.R.) or a certified licensed occupational therapy assistant (C.O.T.A.) established by the NBCOT. It is the responsibility of each person engaged in occupational therapy to

apply for licensure within fifteen (15) days of employment in West Virginia and 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. Any person practicing under this rule must have written permission from WVBOT to initiate practice in the state of West Virginia.

**§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.~~ payment for non-renewal years.

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 for~~ occupational therapy identification.

**§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~~ the full CEU credit that is awarded by the provider.

#### 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 at 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)~~ fifteen (15) days of employment in West Virginia or for a renewal of his or her license within ~~thirty (30)~~ fifteen (15) 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. An original photo of the licensee needs to accompany renewal applications when the WV BOT requests.~~

### **§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~~ Licensed Occupational Therapist a fee of ~~one hundred ninety dollars (\$190.00)~~ two hundred fifty dollars (\$250.00); and

17.1.b. ~~Certified~~ Licensed Occupational Therapy Assistant a fee of ~~one hundred forty dollars (\$140.00)~~ two hundred dollars (\$200.00).

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)~~ one hundred ninety dollars (\$190.00); and

17.2.b. Occupational Therapy Assistant a fee of ~~ninety dollars (\$90.00)~~ one hundred forty dollars (\$140.00)

17.3. Application packet a fee of ~~fifteen dollars (\$15.00)~~ thirty dollars (\$30.00).

17.4. Renewal fee:

17.4.a. ~~Registered~~ Licensed Occupational Therapist a fee of ~~sixty dollars (\$60.00)~~ ninety dollars (\$90.00); and

17.4.b. ~~Certified~~ Licensed Occupational Therapy Assistant a fee of ~~fifty dollars (\$50.00)~~ eighty dollars (\$80.00).

17.5. Late renewal a fee of ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00)

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, judgment 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.

June 21, 2005

West Virginia Board of Occupational Therapy  
3041 University Avenue  
2nd Floor, Suite 6  
Morgantown, WV 26505

**RE: Proposal for Legislative Rule Changes. Title 13 Series 1.**

Dear Occupational Therapy Board Members:

On behalf of the American Occupational Therapy Association, Inc. (AOTA), which represents the professional interests of 35,000 occupational therapists and occupational therapy assistants throughout the country, including 140 occupational therapy practitioners in the state of West Virginia, thank you for the opportunity to comment on the proposed rule changes regarding occupational therapy.

The following Key applies to AOTA suggested language:

= AOTA suggested language  
 = AOTA suggested deletions

**§13-1-2. Definitions.**

The proposed rule changes add several new definitions related to supervision (continuous supervision, close supervision, and routine supervision) and make amendments to the definition of "general supervision". Some of these changes seem confusing or contradictory. The current statutory language in § 30-28-3 (f) defines general supervision as it relates to the supervision of occupational therapy assistants:

As contained in this section, the term "general supervision" means initial direction and periodic inspection of the actual activities; however, the supervising licensed occupational therapist need not always be physically present or on the premises when the licensed assistant is performing services.

The current rules and proposed amendments are somewhat confusing or in conflict with the statutory definition of "general supervision" in requiring the actual physical presence of the supervisor. The statute says it is not always required, while section 2.7 of the rules infers that it is required and 2.10 states that it is not required. Also it is confusing that three sections of the rules discuss "general supervision".

Another confusing definition in this section is "continuous supervision" which applies to aides, occupational therapy students, and licensees under disciplinary actions by the Board. Section § 30-28-7 of the statute exempts students as does §13-1-10.2.b of the regulation. Therefore it

direct contact at the site of work. This applies to limited permit holders.

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 licensed 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 licensed occupational therapy assistant is performing the professional services. General Supervision is demonstrated through co-signatures on all paperwork of the person requiring direct supervision. All paperwork must be signed and dated by the supervising licensed occupational therapist.

2.10.a. Routine supervision applies to licensed occupational therapy assistants, not aides. Direct contact at least every two weeks at the site of work with interim supervision available as needed, such as telephonic, electronic or written communication, this category applies to licensed occupational therapy assistants with more than one year experience.

2.10.b. "General Supervision" means at least monthly direct contact with interim supervision available as needed by telephonic, electronic, or written communication. This applies to licensed occupational therapy assistant with increased skill development and mastery of basic role functions for the delivery of occupational therapy services.

We recognize that the Board is attempting to provide additional guidance to licensees about appropriate supervision in order to protect consumers. Clear and appropriate supervision rules are helpful to licensees, students, employers, payers, consumers, and others. As you may know, AOTA's Representative Assembly adopted revised supervision and role guidelines in 2004 and model supervision regulations in 2005. I am attaching those documents with our comments and urge the Board to review those important documents, particularly the model regulations, for guidance in revising your rules related to supervision.

AOTA's Commission on Practice believes that each supervision situation must be looked at on an individual basis, considering many factors such as patient severity, setting, level of competency, experience, and other factors. This is a departure from previous documents that addressed levels of supervision based on experience, similar to your current and proposed rules. The new AOTA documents clarify roles and responsibility of occupational therapy personnel and emphasize that there are many variables that should be considered in providing appropriate supervision to ensure competent care. The model regulations also include a provision regarding the prohibited coercion of an occupational therapy practitioner to delegate activities or tasks that he or she determines could compromise client safety.

We recommend that the Board incorporate aspects of the model regulations in lieu of the numerous and somewhat confusing supervision levels defined in the proposed rules. We would be happy to work with the Board on revisions to this section or to discuss this section more fully as it is a very important aspect of regulation.

Also in section 2.21 "Referral", the Board is proposing additions to the health care professionals who can refer to occupational therapy. In addition to physician assistant or nurse practitioner practicing under a licensed physician, we suggest that the Board add optometrist.

AOTA recommended amendment:

2.22. "Referral" means a documented order must be obtained from a licensed physician or surgeon, psychologist or psychiatrist, dentist, osteopathic physician or surgeon, optometrist, physician assistant or nurse practitioner practicing under a licensed physician, or chiropodist or podiatrist prior to initiating occupational therapy treatment.

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

We recommend the following minor amendment for consistency:

7.1. The Board shall furnish the necessary forms, a copy of the rules pertaining to the licensing of occupational therapists or ~~licensed occupational therapy assistants~~ 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.

### **§13-1-8. Examination Process.**

We recommend the following amendment to more accurately reflect that NBCOT is a credentialing body rather than a regulatory body:

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

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

We recommend the following amendment to clarify that ACOTE accredits occupational therapy and occupational therapy assistant education programs in the United States:

9.2.a. To those persons who are ~~occupational therapy assistants or who are~~ graduates of occupational therapy or occupational therapy assistant programs ~~recognized by the NBCOT~~ accredited by ACOTE 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.

In section 9.3 limited permit holders are required to practice under direct supervision. This is in conflict with the proposed requirement which requires "close supervision". We bring this to the Board's attention because of the inconsistency, but encourage you to consider our previous recommendations regarding supervision requirements.

In section 9.4 we recommend the following amendment for consistency with the rules:

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.**

In section 10.2.b the proposed amendments are not clear. Is the Board requiring initial or current certification for exempt persons with licensure in another state (for 30 days)? As written it is unclear. If the Board is requiring initial certification, our suggested amendment would be:

10.2.b. Any person not licensed in West Virginia who performs ~~the~~ occupational therapy services for not more than ~~ninety (90)~~ thirty (30) 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 initial certification as an a-licensed an occupational therapist (O.T.R.) or a certified licensed-occupational therapy assistant (C.O.T.A.) established by the NBCOT.

Also in this section, the proposed rules state that a person must apply for licensure within 15 days of employment. In section 13.2 it states 30 days.

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

In December 2003 we sent the Board information about AOTA's Approved Provider Program and requested that the Board consider pre-approval of courses sponsored by AOTA or AOTA Approved Providers when you amend your regulations regarding continuing competence. AOTA Approved Providers must meet specific standards of our program in order to offer AOTA CEUs for courses relevant to occupational therapy. Adding pre-approval provisions such as these to your regulations may decrease the burden of the Board in reviewing audits and will indicate high quality relevant professional development activities for licensees. If you would like more information about the program, please feel free to contact me.

AOTA suggested amendment:

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. Courses provided by AOTA or sponsored by AOTA Approved Providers are pre-approved by the Board.

In section 12.7.c.13 Formal Self-Study, the Board awards licensees 9 contact hours for completion of each self-study course. This may be over-rewarding some courses and under-rewarding other courses. For instance, AOTA self-paced clinical courses (self-studies) may vary from 14 to 33 contact hours and other providers may offer courses of 6 hours or even less. We suggest that the Board allow the full contact hour or CEU credit that is awarded by the provider because these vary so much and can be excellent learning opportunities.

We commend the Board on this thorough review of your rules and appreciate the opportunity to comment on the proposed changes. We hope our comments are helpful and would be happy to provide further information on any of our comments or to assist the Board in any way.

Sincerely,



Karen C. Smith, OT  
Regulatory Associate  
State Affairs Group

Enclosure

cc: Mary Hager, OTR President, West Virginia Occupational Therapy Association

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**Subject:** Re: [Fwd: AOTA Comments - Proposed Rules]**From:** paulasisler@wvbot.org**Date:** Tue, June 21, 2005 11:31 pm**To:** dianaharris@wvbot.org (more)**Priority:** Normal**Options:** View Full Header | View Printable Version

Dear Chuck Willmarth and Karen C. Smith,

The WVBOT would like to 'Thank you' for your comments.

You were a valued source of information and we appreciate the time and effort you spent to respond to our changes. We tried to implement many of your comments, ie adding optometrist, consistency issues with wording, ACOTE issues regarding accredited OT programs, and formal self study.

As you know supervision of aides, students, limited permit holders, etc is always a complicated issue. We, as the Board, have many issues to consider when attempted to define the types of supervision required of its licensees, students, etc. We understand the complexity of placing a student in fieldwork sites and have tried to accommodate these issues in our revisions of Direct Continuous and Direct Close Supervision. Please also understand that this Board also has the responsibility to protect the consumer who receives Occupational Therapy and to our Licensees who supervise the OT students. During our teleconference, we considered many of your AOTA views on student supervision and have made several corrections and compromises to the definitions of Direct Continuous and Direct Close Supervision as it applies to students and our role as a License and Regulatory Board.

To clarify one issue which you were confusing by stating that students are exempt from supervision...the Section 38-28-7 addresses the issue of Licensure not student supervision. 13-1-10.2b again is a licensure issue and not student supervision.

Again, Thank you for your comments.

Sincerely,

Paula May Sisler, COTA/L  
Chairperson of WVBOT

> ----- Original Message -----  
> Subject: AOTA Comments - Proposed Rules  
> From: "Charles Willmarth" <cwillmarth@aota.org>  
> Date: Tue, June 21, 2005 10:58 am  
> To: dianaharris@wvbot.org  
> Cc: Diamond004@aol.com

> Diana,

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**Subject:** WVBOT**From:** "Kubistek, Aaron" <Aaron.Kubistek@healthsouth.com>**Date:** Tue, May 24, 2005 9:09 am**To:** dianaharris@wvbot.org**Priority:** Normal**Options:** View Full Header | View Printable Version

Ms. Harris,

After looking over the proposed legislature I noticed several changes in terminology regarding a OT practioners Certified or Registered status, of which I support. Is this a sign of WVBOT not supporting NBCOT's competency standards? Do you foresee other states following suite?

Thank-you,

Aaron Kubistek, OTR/L

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**Subject:** [Fwd: ]  
**From:** paulasisler@wvbot.org  
**Date:** Wed, May 25, 2005 1:08 pm  
**To:** dianaharris@wvbot.org  
**Priority:** Normal  
**Options:** View Full Header | View Printable Version

Here's a copy of what I sent to him

----- Original Message -----

Subject:  
From: paulasisler@wvbot.org  
Date: Wed, May 25, 2005 12:39 pm  
To: Aaron.Kubistek@healthsouth.com

Aaron,

I just wanted to let you know that we are in support of NBCOT's competency standards. In WV it is not required to continue to "carry" the "C" or "R" for licensure purpose after the initial obtaining for licensure. I myself have kept my "C" and feel that I have earned it and want to continue with using it.

There have been some complaints by those who do not carry the "C/R", so to be in line with what we require or don't require, that is why the "C/R" was removed. I am purposing that maybe we replace these into the legislative rules but place ( ) around them. We will talk about it at the next meeting.

Thank you for your concern and comments.

Paula May Sisler, COTA/L  
WVBOT Chairperson

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[Message List](#) | [Delete](#)[Previous](#) | [Next](#)[Forward](#) | [Forward as Attachment](#) | [Reply](#) | [Reply All](#)**Subject:** proposed changes**From:** "Kathy Quesenberry" <ques@citlink.net>**Date:** Sat, May 21, 2005 1:41 pm**To:** dianaharris@wvbot.org**Priority:** Normal**Options:** [View Full Header](#) | [View Printable Version](#)

I have a couple of questions in regards to the proposed changes:

1) - I understand that with inflation that fees need to be changed. I do, however, think all of the fee adjustments are pretty substantial and something needs to be published as to what the additional fees are going to be used for. I would like a breakdown of how the additional funding is to be used.

2) - One concern I sent in with the initial request for comments is the question of direct access in certain situations / environments as is available to physical therapists. I believe the lack of direct access limits our profession, and in certain circumstances we actually lose occupational therapy referrals to physical therapists because of direct access. I would like to know if this was discussed. If so, what was the content of the discussion and decision, and if not why it was not a topic of discussion.

Thank you very much for addressing these questions.  
Kathy Quesenberry

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**Subject:** [Fwd: ]**From:** paulasisler@wvbot.org**Date:** Wed, May 25, 2005 1:07 pm**To:** dianaharris@wvbot.org**Priority:** Normal**Options:** View Full Header | View Printable Version

Here is a copy of the letter I sent to her

----- Original Message -----

**Subject:****From:** paulasisler@wvbot.org**Date:** Wed, May 25, 2005 1:05 pm**To:** ques@citlink.net

Kathy,

The fees which are raised in the legislative rules have not been changed since the conception of the WVBOT in 1978, this is now 2005, 28 years with no increases having been made to the renewal fees or to the other fees changes listed. The WVBOT is a self funded board with no monies coming in to the Board from the government only what we receive from renewals and initial licensure, etc. So it was advised by the Director of Accounting in Charleston that we are to raise our fees in order to continue business in this economy as it is today.

The WVBOT has experienced high costs due to discipline hearings, lawyer fees and the like that happen at these hearings. With little or no recovery of costs. We have in the past hosted Continuing Education for licensees at little to no cost to the licensees, we paid all costs associated with these courses. There are the costs of running the office-paying an employee, cost of office supplies, operating expenses (rent, utilities, etc), postage and copying (when anything is mailed to licensees it is expensive for the copying and mass mailings). Website creation and maintance, fees that are incurred through governmental departments (accounting, payroll, etc.)

Future Monies needed for possible disciplinary hearings and all the fees associated with having a hearing, increase costs of running an office, operating expenses, etc.

So as you can see this is only a little bit of what goes on at the office, the additional monies received by raising the fees will keep us running an effective and efficient WVBOT.

In the future we are hoping to be able to again offer Continuing Ed courses and hopefully the fees will not have to be increased for another 30 years.

The issue of Direct access can not be addressed at this time due to the fact we are not opening up the Practice Act this year. But I can tell you this, many of the licensees DO NOT want the Direct Access due to the

increase risk and liability it causes, among other issues. If you are wanting more on this view please email Martin Douglas.

I hope this answers you concerns.  
Paula May Sisler, COTA/L  
WVBOT Chairperson

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**Subject:** revisions to law**From:** "Ripley, Myra" <MRipley@hcr-manorcare.com>**Date:** Tue, June 21, 2005 10:03 am**To:** dianaharris@wvbot.org**Priority:** Normal**Options:** View Full Header | View Printable Version

If the law is being revised, why isn't direct access being addressed. I believe PT just deleted the words stating a referral by MD, etc. is required. We all know at this point except for limited settings & private pay, an order is required for payment. It seems we would be ahead to address this with the changes proposed rather than opening the law for revision at a later date.

Myra D. Ripley, RRM Mid-Atlantic, Region 3

Cell Ph: 304-619-8699 VM: 71509 E-fax: 877-311-4865

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**Subject:** [Fwd: Re: [Fwd: revisions to law]]  
**From:** paulasisler@wvbot.org  
**Date:** Tue, June 21, 2005 10:38 pm  
**To:** MRipley@hcr-manorcare.com (more)  
**Priority:** Normal  
**Options:** View Full Header | View Printable Version

----- Original Message -----

Subject: Re: [Fwd: revisions to law]  
 From: paulasisler@wvbot.org  
 Date: Tue, June 21, 2005 10:36 pm  
 To: dianaharris@wvbot.org  
 dianaharris@wvbot.org

Dear Myra Ripley,

The WVBOT would like to 'Thank you' for your comments. The issue of Direct access can not be addressed at this time, due to the fact that we are not opening up the Practice Act this year. But, I can tell you that many of the licensees have expressed their opinion of not wanting the Direct access due to the increase risk and liability it would cause, among other issues. If you are wanting more on this issue please email Martin Douglas from the WVBOT website.

&gt; ----- Original Message -----

> Subject: revisions to law  
 > From: "Ripley, Myra" <MRipley@hcr-manorcare.com>  
 > Date: Tue, June 21, 2005 10:03 am  
 > To: dianaharris@wvbot.org

> -----  
 >  
 > If the law is being revised, why isn't direct access being addressed. I believe PT just deleted the words stating a referral by MD, etc. is required. We all know at this point except for limited settings & private pay, an order is required for payment. It seems we would be ahead to address this with the changes proposed rather than opening the law for revision at a later date.

>  
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 > Myra D. Ripley, RRM Mid-Atlantic, Region 3

>  
 > Cell Ph: 304-619-8699 VM: 71509 E-fax: 877-311-4865

>  
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Paula May Sisler, COTA/L  
Chairperson of West Virginia Board of Occupational Therapy

Paula May Sisler, COTA/L  
Chairperson of West Virginia Board of Occupational Therapy

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[Message List](#) | [Delete](#)[Previous](#) | [Next](#)[Forward](#) | [Forward as Attachment](#) | [Reply](#) | [Reply All](#)**Subject:** Re: legislative rule changes**From:** "Elizabeth Moyer" <emoyer@hsc.wvu.edu>**Date:** Mon, June 20, 2005 4:15 pm**To:** dianaharris@wvbot.org**Priority:** Normal**Options:** [View Full Header](#) | [View Printable Version](#)

It seems excessive to require "continuous supervision" of OT interns; when "direct supervision" should be more than adequate. OT students are much better trained than OT aides and should be expected to perform at a higher level. Making this mandatory may make it difficult for some sites to take students and for students to demonstrate their capabilities.

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**Subject:** Re: [Fwd: Re: legislative rule changes]**From:** paulasisler@wvbot.org**Date:** Tue, June 21, 2005 11:08 pm**To:** dianaharris@wvbot.org (more)**Priority:** Normal**Options:** View Full Header | View Printable Version

Dear Elizabeth Moyer,

The WVBOT would like to 'Thank you' for your comments.

As you know supervision of aides, students, limited permit holders, etc is always a complicated issue. We, as the Board, have many issues to consider when attempted to define the types of supervision required of its licensees, students, etc. We understand the complexity of placing a student in fieldwork sites and have tried to accommodate these issues in our revisions of Direct Continuous and Direct Close Supervision. Please also understand that this Board also has the responsibility to protect the consumer who receives Occupational Therapy. During our teleconference, we considered AOTA views on student supervision and have made several corrections and compromises to the definitions of Direct Continuous and Direct Close Supervision as it applies to students and our role as a License and Regulatory Board.

Sincerely,

Paula May Sisler, COTA/L

Chairperson of WVBOT

> ----- Original Message -----  
 > Subject: Re: legislative rule changes  
 > From: "Elizabeth Moyer" <emoyer@hsc.wvu.edu>  
 > Date: Mon, June 20, 2005 4:15 pm  
 > To: dianaharris@wvbot.org

> -----  
 > It seems excessive to require "continuous supervision" of OT interns; when  
 > "direct supervision" should be more than adequate. OT students are much  
 > better trained than OT aides and should be expected to perform at a higher  
 > level. Making this mandatory may make it difficult for some sites to take  
 > students and for students to demonstrate their  
 > capabilities.

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June 20, 2005

Dear WV Board of OT Members,

I am writing this letter in regards to the proposed changes in the Legislative Rule Title 13, Series 1. The area of significant concern is: 2.7a.

2.7.a. "Continuous supervision" is the direct and continuous supervision that applies to aides, Occupational Therapy students and licensees under disciplinary actions per WVBOT. This means that the Occupational Therapy supervisor is physically present and in direct line of site of aides, Occupational Therapy students and licensee under disciplinary actions per WVBOT while they are performing delegated client related tasks. Such task must be performed only if the aide has completed specific competency training which has been adequately provided and documented by a supervising therapist.

I urge you to strongly reconsider the wording in this proposal. As the Academic Fieldwork Coordinator at the only OT school in WV, this proposal will have detrimental effects on our ability to provide our students with a quality fieldwork experience and ensure a supply of new OTRs for our state.

We already have strict line of sight guidelines for Skilled Nursing Facilities, as per Medicare Guidelines. Although I feel our OTR supervisors are quite competent in determining the correct amount of supervision necessary, based on the student's performance and needs, this guideline must be followed in order to receive reimbursement. I do not feel it is necessary to provide continuous supervision to our students on fieldwork for their entire rotation.

I refer to the ACOTE Standards B.10.12, which states,

10.12 *Ensure that supervision provides protection of consumers and opportunities for appropriate role modeling of occupational therapy practice. Initially, supervision should be direct, then decrease to less direct supervision as is appropriate for the setting, the severity of client's condition, and the ability of the student.*

By the time that students reach Level II fieldwork placement at WVU, they have completed two years of course work and two separate Level I fieldworks. They should not be held to the same supervision guidelines as an OT aide that has no formal OT education on theory and treatment. From my experience as a student supervisor and now an academic fieldwork coordinator, it is expected that students will need line of sight supervision initially, but to provide that extreme level of supervision for their entire twelve-week rotation will not instill independence and problem solving in the same manner that decreased supervision does.

Allowing this proposal to pass, as worded, will cause sites to not take students, as they cannot provide this level of supervision because of several possibilities. It will affect their productivity, especially in our smaller WV community hospitals where there may be a very small OT staff (maybe only one OTR), where OT treatment occurs in the client's room. There may not be a central gym or treatment room in which to see several clients at a time. This will have a trickle-down effect, as taking students is often a method for finding out if that student would be a good match for the facility to fill a vacant employment position. If the site cannot take a student because of the need for continuous supervision, more of our students will end up leaving the state for fieldwork and likely for employment.

WV is one of 17 states that has restrictions of direct supervision for students. This halts our ability to step out into nontraditional practice, as our profession expands into these areas on a national basis. Currently our nontraditional sites may only be used as Level I sites, as there is no OT present. There has been significant talk of opening up the Practice Act to address this issue. Thus, schools could place a student in a nontraditional site with supervision from a community therapist or faculty member for a set amount of time each week. Often times, as other states have demonstrated, this lead to employment of the student and further growth into a nontraditional area. (ACOTE Standard: 10.13 In a setting where there is no occupational therapist on site, the program must document that there is a plan for the provision of occupational therapy services. On-site supervision must be provided in accordance with the plan and state credentialing requirements. The student must receive a minimum of six hours of occupational therapy supervision per week, including direct observation of client interaction. Additionally, the occupational therapy supervisor must be readily available for communication and consultation during work hours. Such fieldwork shall not exceed 12 weeks.)

To accept the proposal of continuous supervision will wipe out all chances of WV branching out into nontraditional areas, like providing services in homeless shelters, group homes, mental health day centers, prisons, and so many other areas that promote prevention and wellness. As a nation, OT is branching out into areas like this with significant acceptance from the community. WV should not deny its residents this opportunity to understand what OT really is and receive its services in a community setting, rather than just a medical setting.

In summary, I feel strongly that "students" should be removed from the Continuous Supervision proposal. As currently worded, the proposal will create severe obstacles to the practice of OT in this state and also to our schools: MSU and WVU in ensuring quality learning experiences and professional development while on their Level II fieldworks in the state of WV.

Thank you for your consideration,

Amanda Kessler Rogers, OTR/L  
Academic Fieldwork Coordinator and Assistant Professor  
West Virginia University- Division of Occupational Therapy  
304-293-0218

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**Subject:** Re: [Fwd: Comments on Leg. Rule]**From:** paulasisler@wvbot.org**Date:** Tue, June 21, 2005 11:00 pm**To:** dianaharris@wvbot.org (more)**Priority:** Normal**Options:** View Full Header | View Printable Version

Dear Amanda Kessler,

The WVBOT would like to 'Thank you' for your comments.

As you know supervision of aides, students, limited permit holders, etc is always a complicated issue. We, as the Board, have many issues to consider when attempted to define the types of supervision required of its licensees, students, etc. We understand the complexity of placing a student in fieldwork sites and have tried to accommodate these issues in our revisions of Direct Continuous and Direct Close Supervision. Please also understand that this Board also has the responsibility to protect the consumer who receives Occupational Therapy. During our teleconference, we considered AOTA views on student supervision and have made several corrections and compromises to the definitions of Direct Continuous and Direct Close Supervision as it applies to students and our role as a License and Regulatory Board.

As to your section of comments on nontraditional sites, The Board has not had "significant talk of opening up the Practice Act to address the issue of nontraditional sites for fieldwork." Again this is an extremely important issue that as a Regulatory Board, we must protect the consumers and licensees who are supervising an OT student.

Again, 'Thank you' for your comments, it has provided significant insight to our revisions.

Sincerely,  
Paula May Sisler, COTA/L  
Chairperson of WVBOT

> ----- Original Message

> Subject: Comments on Leg. Rule  
> From: "Amanda Kessler" <akessler@hsc.wvu.edu>  
> Date: Tue, June 21, 2005 11:51 am  
> To: dianaharris@wvbot.org

>  
>

> Diana,  
> Attached is a letter of comment.  
> Thank you,

- > Amanda
- >
- > Amanda Kessler Rogers, OTR/L
- > Academic Fieldwork Coordinator and Assistant Professor
- > West Virginia University- Division of Occupational Therapy
- > 304-293-0218
- >
- >
- >

Paula May Sisler, COTA/L  
Chairperson of West Virginia Board of Occupational Therapy

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West Virginia Board of Occupational Therapy  
3041 University Avenue  
2<sup>nd</sup> Floor, Suite 6  
Morgantown, WV 26505  
304-285-3150  
[www.wvbot.org](http://www.wvbot.org)

TO: Secretary of State and the LRMRC

FROM: West Virginia Board of Occupational Therapy

DATE: June 22, 2005

RE: Amendments and reasons to Rule changes as a result of comment period

**Reworded to better clarify**

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. The Board has the right to issue Direct Supervision on any licensee under disciplinary actions. 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. Direct supervision is demonstrated through co-signatures on all paperwork of the person requiring direct supervision. All paperwork must be signed and dated by the supervising licensed occupational therapist. Direct supervision has two categories: direct continuous supervision and direct close supervision.

2.7.a. "Direct Continuous Supervision" is the direct and continuous supervision that applies to aides. This means that the Occupational Therapy supervisor is physically present and in direct line of site of aides. For an aide, client related tasks must be performed only if the aide has completed specific competency training which has been adequately provided and documented by a supervising therapist. For occupational therapy students, direct continuous supervision is required. This means that the occupational therapy supervisor is physically present and in direct line of site of students. As the occupational therapy student demonstrates competency in performance, supervision can progress to direct close supervision at the discrepancy of the supervising Occupational Therapist/Occupational Therapy Assistant. For licensees under disciplinary action per WV BOT direct continuous supervision is required and upon Board approval can progress to direct close supervision.

2.7.b. "Direct Close Supervision" means the Occupational Therapy supervisor is in the building and has daily direct contact at the site of work. This applies to limited permit holders, occupational therapy students who have demonstrated competency in performance and licensees under disciplinary action per WV BOT.

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~~ licensed occupational therapy assistant's professional experience which ~~includes can also include~~ evaluation of his or her performance. The supervisor need not be present or on the premises at all times where the ~~certified~~ licensed occupational therapy assistant is performing the professional services. For an Occupational Therapy Assistant with less than one year's experience general supervision means direct contact at least every two weeks at the site of work with supervision as needed such as telephonic, electronic, or written communication. General Supervision is demonstrated through co-signatures on all paperwork of the person requiring general supervision. All paperwork must be signed and dated by the supervising licensed occupational therapist.

**This part was taken out because it was to confusing**

~~2.10.a. Routine supervision applies to licensed occupational therapy assistants, not aides. Direct contact at least every two weeks at the site of work with interim supervision available as needed, such as telephonic, electronic or written communication. this category applies to licensed occupational therapy assistants with more than one year experience.~~

~~2.10.b. "General Supervision" means at least monthly direct contact with interim supervision available as needed by telephonic, electronic, or written communication. This applies to licensed occupational therapy assistant with increased skill development and mastery of basic role functions for the delivery of occupational therapy services.~~

2.22. "Referral" means a documented order must be obtained from a licensed physician or surgeon, psychologist or psychiatrist, dentist, osteopathic physician or surgeon, physician assistant or nurse practitioner practicing under a licensed physician, or optometrist or chiropodist or podiatrist prior to initiating occupational therapy treatment.

--Added optometrist

**Not to limit the board**

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 for time spent performing board duties.~~

**Not a regulatory board**

**§13-1-8. Examination Process.**

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

**ACOTE does the accreditations of OT/OTA programs**

9.2.a. To those persons who are occupational therapy assistants or who are graduates of occupational therapy programs ~~recognized by the NBCOT~~ accredited by the ACOTE 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.

**Better clarification**

10.2.b. Any person who has an occupational therapist/occupational therapy assistant license from another state and is in good standing and who is not licensed in.....

**Many self-study courses are longer than 9 hours**

12.7.c.13.C. A licensee may earn ~~9 contact hours~~ for completion of each self-study course the full CEU credit that is awarded by the provider.

**Didn't change first time**

13.2. It is the responsibility of each person engaged in occupational therapy to apply for licensure within ~~thirty (30)~~ fifteen (15) days of employment in West Virginia or for a renewal of his or her license within ~~thirty (30)~~ fifteen (15) 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.