

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #2

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2009 MAY 15 AM 9:46

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

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

RULE TYPE: Legislative CITE AUTHORITY: W. Va. Code §30-28-6

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 of
Occupational Therapists and Occupational Therapy Assistants

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON June 18, 2009 AT 3:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

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

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Vanda Malnikoff
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



West Virginia Board of Occupational Therapy

3041 University Avenue
2nd Floor, Suite 6
Morgantown, WV 26505
304-285-3150
www.wvbot.org

TO: Secretary of State and the LRMRC

FROM: West Virginia Board of Occupational Therapy

DATE: May 12, 2009

RE: Brief Summary and Statement of Circumstances

During the 2009 Legislative Session, House Bill 2309 was passed, amending §30-28, the West Virginia Occupational Therapy Practice Act. In order to align our Title 13 Legislative Rules with the amended Practice Act, we are filing the attached amended Series 1 Administrative Rules of the Board for consideration during the 2010 Legislative Session. In addition to the amendments necessary to align with our Practice Act, the Board is proposing that the current Series 1 Rule be broken into several more specific rules, including:

- Series 3 Fees for Services Rendered by the Board
- Series 4 Continuing Education and Competence
- Series 5 Competency Standards for Advanced Practice
(also filed as an Emergency Rule)
- Series 6 Ethical Standards of Practice

The existing Series 2 Procedural Rule for Disciplinary, Complaint and Contested Case Hearing Procedures will also be filed for amendment.

If you have any further questions, please do not hesitate to contact the Board at the number above.

Sincerely,

Kathy F. Quesenberry, MSM, OTR/L
Kathy Quesenberry, MSM, OTR/L
President

Martin Douglas, MS, OTR/L
Martin Douglas, MS, OTR/L
Secretary / Treasurer

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 13, Series 1 Administrative Rules of the Board of Occupational Therapy

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Board of Occupational Therapy

Address: 3041 University Ave.
2nd Floor, Suite 6
Morgantown, WV 26505

Phone Number: 304-285-3150 Email: vmalnikoff@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 costs and revenues of state government as WV BOT is 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	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues			

Rule Title: _____

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 by fees paid by licensees.

Date: 5/12/09

Signature of Agency Head or Authorized Representative

Vonda Malnikoff

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SECRETARY OF STATE

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 5, 2006.

1.4. Effective Date. -- April 15, 2006.

§13-1-2. Definitions.

As used in this rule:

2.1. "ACOTE" means the Accreditation Council for Occupational Therapy Education.

2.2. "Active Practice" means engaging in occupational therapy.

2.3. "Association" means the West Virginia Occupational Therapy Association which is separate from the West Virginia Board of Occupational Therapy, (WVBOT).

2.4. "Board" or "WVBOT" means the West Virginia Board of Occupational Therapy.

2.5. "Client-related tasks" means the tasks which are related to treatment and which, when performed by an occupational therapy aide, must be performed under direct supervision, including routine transfers, routine care of a patient's personal needs during the course of treatment, execution of an established routine activity or exercise, and assisting the supervising occupational therapist or occupational therapy assistant as directed during the course of treatment.

2.5. "Clinician" means a person who actively practices occupational therapy within a clinical setting.

2.6. "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.

2.7. "Continuing Professional Competence" means a growth in continuing professional competency and educational knowledge of current developments in the practice of occupational therapy and research.

2.8. "Direct Supervision" means the actual physical presence of a licensed ~~supervisor~~ supervising occupational therapist or occupational therapy assistant, 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 require Direct Supervision of any licensee under disciplinary actions. Direct supervision is demonstrated through co-signatures on all paperwork or electronic notes pertaining to the practice of occupational therapy for the person requiring direct supervision. All paperwork or electronic notes pertaining to the practice of occupational therapy must be signed and dated, electronically or otherwise, by the supervising licensed occupational therapist. Direct supervision includes direct continuous supervision and direct close supervision.

2.89.a. "Direct Close Supervision" means the ~~Occupational Therapy supervisor~~ licensed supervising occupational therapist or occupational therapy assistant is in the building and has daily direct contact at the site of work. This applies to limited permit holders and occupational therapy students who have demonstrated competency in performance.

2.89.b. "Direct Continuous Supervision" means that the ~~Occupational Therapy supervisor~~ licensed supervising occupational therapist or occupational therapy assistant, is physically present and in direct line of sight of ~~aides, and is initially required for occupational therapy students~~ the occupational therapy student or aide. ~~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.~~ As the occupational therapy student demonstrates competency in performance, supervision can progress to direct close supervision at the discretion of the supervising Occupational Therapist/Occupational Therapy Assistant.

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

2.1011. "Examination" means the certification examination administered by the NBCOT, or another nationally recognized credentialing body as approved by the Board.

2.1112. "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 licensed occupational therapy assistant's professional experience which can also include evaluation of his or her performance. The supervisor need not be present or on the premises at all times where the licensed occupational therapy assistant is performing the professional services. General Supervision is demonstrated through co-signatures on all paperwork or electronic notes pertaining to the practice of occupational therapy for the person

requiring general supervision. All paperwork or electronic notes pertaining to the practice of occupational therapy must be signed and dated, electronically or otherwise, by the supervising licensed occupational therapist.

2.1213. "In Collaboration With" means a formal working relationship in which there is regular consultation.

2.1314. "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.

2.1415. "License" means a valid and current ~~certificate of registration~~ license issued by the ~~West Virginia Board of Occupational Therapy~~ under the provisions of W. Va. Code §30-28-10.

2.1516. "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.

2.1617. "NBCOT" means the National Board for Certification in Occupational Therapy.

2.18. "Non-client-related tasks" means tasks which are not related to treatment, including clerical and maintenance activities, housekeeping, preparation of the work area or equipment, transporting patients, ordering supplies and assisting in the construction of splints and adaptive equipment, and which, when performed by an occupational therapy aide, must be performed under general supervision.

2.1719. "Occupational Therapist" means a person licensed to practice occupational therapy and whose license is in good standing.

2.18. "~~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.

2.1920. "Occupational Therapy Aide" means a person who assists in the practice of occupational therapy, who works may provide non-client-related tasks under general supervision, or specifically delegated client-related tasks, subject to the conditions set forth in W. Va. Code §30-28-4(f) under the direct continuous supervision of a licensed an occupational therapist or licensed an occupational therapy assistant, in accordance with the provisions of W. Va. Code §30-28 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.

2.2021. "Occupational Therapy Assistant" means a person licensed by the Board under the provisions of W. Va. Code §30-28 to assist in the practice of occupational therapy under the general supervision of the licensed an occupational therapist and who license is in good standing.

2.2122. "Periodic Meetings To Review" means the supervising licensed occupational therapist consulting with the licensed occupational therapy assistant to review the outcome of service delivery. These meetings shall occur every 30 days or 10 treatment sessions, whichever comes first, if the occupational therapy assistant has less than

three years of experience within that practice setting (e.g. school system, home health, skilled nursing facility, etc.) and must occur during a treatment session with the patient. If the occupational therapy assistant has greater than three years of experience in the practice setting, these meetings shall occur every 45 days or 10 treatment sessions, whichever comes first, and must occur during a treatment session with the patient. More frequent meetings may be indicated depending on the type of setting and patient needs. Documentation by the occupational therapist must reflect that this supervision has occurred. 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.

2.2223. "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.

2.24 "The practice of occupational therapy" means the therapeutic use of everyday life activities or occupations to address the physical, cognitive, psychosocial, sensory, and other aspects of performance of individuals or groups of individuals, including those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation or participation restriction, to promote health, wellness and participation in roles and situations in home, school, workplace, community, and other settings.

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

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

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

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

3.3. Board members are entitled to compensation and expense reimbursement in accordance with Chapter 30, Article 1. ~~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.~~

3.54. 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.~~ 5.3. 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.~~ 5.4. 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.

6.1. The Executive Secretary shall keep the minutes of the proceedings of the Board's meetings and the records of the Board.

6.2. The Executive Secretary shall 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.

6.3. The Executive Secretary, 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.

6.4. The Executive Secretary shall maintain an accurate list of licensees with current names, addresses, and dates of birth.

6.5. The Executive Secretary 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 and publish in the West Virginia Register.

§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 include~~ include a Supervisory Statement 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 ~~payment 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 §30-28-1719.

7.6. Each applicant for licensure shall be tested by the NBCOT, ~~or another nationally recognized credentialing body as approved by the Board,~~ by a written or computerized 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 requirements set forth by the NBCOT, ~~or another nationally recognized credentialing body as approved by the Board.~~

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

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.ca. Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the Board as described in W. Va. Code §30-28-810;

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

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

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

9.2.a. Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the Board as described in W. Va. Code §30-28-10; ~~To those persons who are occupational therapy assistants or who are graduates of occupational therapy programs 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 for ninety (90) days from date of issuance of the limited permit.

9.2.b. Has successfully completed a period of supervised fieldwork experience required by the recognized educational institution where he

or she met the academic requirements; ~~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 ~~A~~ limited permit is not renewable, and for this classification is valid for ninety (90) days from the date of issuance ~~of the limited permit.~~

9.2.b.2. A limited permit expires immediately within this classification becomes null and void if the holder fails to pass the qualifying examinations receives notification of a failing score on the examination. Upon notification from the board ~~The~~ limited permit holder must stop practicing occupational therapy immediately.

9.32.b.3. The occupational therapist who has been issued a limited permit shall practice under the direct close supervision of a licensed an occupational therapist who holds a current license in this state.

9.42.b.4. The occupational therapy assistant who has been issued a limited permit shall practice under the direct close supervision of a licensed an occupational therapist or occupational therapy assistant with at least one (1) year of experience, who holds a current license in this state, or a licensed occupational therapist.

9.3. The Board may issue a temporary license to applicants in a timely manner upon receipt of a properly completed application and payment of the appropriate fee if the applicant:

9.3.a. Is licensed and in good standing in a jurisdiction whose standards are determined by the Board or by a board approved credentialing agency to be equivalent to the standards required for licensure in this state;

9.3.a.1. The holder of a temporary license may practice occupational therapy only in

accordance with the provisions of W. Va. Code §30-28-1.

9.3.a.2. A temporary license is nonrenewable, and is valid for thirty (30) days.

§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 occupational therapy student who is the process of completing a period of supervised ~~field work~~ fieldwork 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) consecutive calendar 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 a licensed occupational therapist or a licensed occupational therapy assistant 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 as an Occupational Therapist or an Occupational Therapy Assistant 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. Licenses may be renewed biennially on renewal application forms provided by the Board. ~~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. A license which has lapsed may be renewed within one year of its expiration. Application for late renewal shall be accompanied by the late renewal fee. ~~Applications for late renewal of a license shall be accompanied by the late renewal fee and payment for non-renewal years.~~

11.3. The license renewal sent to the license holder shall be accompanied by two (2) wallet-sized cards for occupational therapy identification.

11.4. WVBOT may request that a current photo be submitted with renewal applications.

§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 the full contact hour 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 are not limited to, a combination of reading, observing other therapists, viewing videotape quality assurance or peer review studies, and related professional activities which enhance knowledge and skill in a specific area.~~

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

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

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

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

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

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

~~12.8. Recency of Education:~~

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

~~therapy knowledge, theory, and practice skills.~~

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

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

§13-1-1312. Responsibilities of the Licensee or Limited Permit Holder.

~~1312.1. 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.~~

~~1312.2. It is the responsibility of the licensed Occupational Therapist supervising an Occupational Therapy Assistant with less than one three year's experience within the practice setting to provide general supervision with direct contact at least every two weeks 30 days or 10 treatment sessions, whichever comes first, at the site of work and supervision available as needed by telephonic, electronic, or written communication.~~

~~1312.3. It is the responsibility of the licensed Occupational Therapist supervising and Occupational Therapy Assistant with increased skill development and mastery of basic role functions for the delivery of occupational therapy services greater than three year's experience in the practice setting to provide general supervision with monthly direct contact at least every 45 days or 10 treatment sessions, whichever comes first, at the site of work and supervision available as needed by telephonic, electronic, or written communication.~~

~~1312.4.~~ 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 or occupational therapy assistant practicing under a limited permit shall be supervised by a licensed occupational therapist.~~

~~13.5.~~ It is the responsibility of each person engaged in occupational therapy to apply for licensure within fifteen (15) days of employment in West Virginia or for a renewal of his or her license within 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.~~

~~13-6-12.5.~~ Any occupational therapist licensed under the requirements of this rule 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.

~~13-7-12.6.~~ 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.

~~13-8-12.7.~~ 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.

~~13-9-12.8.~~ 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. Display of License or Limited Permit.

~~1413.1.~~ 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.

~~1413.2.~~ A licensee shall exhibit the current licensure and/or renewal registration card when requested by the following:

~~1413.2.a.~~ A Board member;

~~1413.2.b.~~ An employee of the West Virginia Department of Health and Human Services;

~~1413.2.c.~~ Any person upon whom the licensee performs occupational therapy; or

~~1413.2.d.~~ An employer in whose employ the licensee practices or intends to practice occupational therapy.

~~1413.3.~~ A photocopy or other facsimile of a license or wallet-sized registration card shall not be accepted as adequate evidence that a person is licensed to practice occupational therapy. Where, for convenience or security, a photocopy or facsimile is displayed, the original document shall be readily available for review.

§13-1-~~15~~14. Duplicate License.

~~1514.1.~~ In requesting a name change, the licensee shall ~~return the current license to the Board~~ provide a copy of the legal document authorizing the change with the required fee before the Board will issue a ~~corrected~~ amended license.

~~1514.2.~~ 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~~15. Notice of Change of Address, Change of Name.

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. Licensed Occupational Therapist a fee of two hundred fifty dollars (\$250.00); and~~

— ~~17.1.b. Licensed Occupational Therapy Assistant a fee of 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 ninety dollars (\$190.00); and~~

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

— ~~17.3. Application packet a fee of thirty dollars (\$30.00):~~

~~17.4. Renewal fee:~~

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

— ~~17.4.b. Licensed Occupational Therapy Assistant a fee eighty dollars (\$80.00):~~

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

— ~~17.6. Other fees for services shall not exceed~~

~~the actual cost of the services:~~

§13-1-~~18~~16. Suspension, Revocation and Refusal to Renew License or Limited Permit.

~~1816.1.~~ After providing adequate notice and an opportunity for a hearing, the Board may deny or refuse to renew, suspend; or revoke the license of, or refuse to renew or impose probationary conditions upon or take disciplinary action against, any licensee or limited permit holder for any of the reasons described in W. Va. Code §30-28-16, including being guilty of unprofessional conduct, 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:

~~1816.1.a.~~ Obtaining a license or limited permit by fraud, misrepresentation or concealment of material facts;

~~1816.1.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;

~~1816.1.c.~~ Violating any lawful order or rule or regulation rendered or adopted by the Board;

~~1816.1.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;

~~1816.1.e.~~ Willful falsification, destruction or theft of property or records relating to the practice of occupational therapy or the health of the patient;

~~1816.1.f.~~ Failure to exercise due regard for

the safety, the life or health of the patient. Actual injury need not be established;

~~1816.1.g.~~ Unauthorized disclosure of information relating to a patient or his or her records;

~~1816.1.h.~~ Discrimination in the practice of occupational therapy against any person for reason of race, religion, creed, color or national origin; ~~or~~

~~1816.1.i.~~ Practicing beyond the scope of practice of occupational therapy as defined in Violating any provision of W. Va. Code §30-28-4;1 et seq;

16.1.j. Performing occupational therapy services for which the occupational therapist or occupational therapy assistant is not adequately trained and competent to perform;

16.1.k. Willingly engaging in or assisting any person in engaging in, or otherwise participating in, abusive or fraudulent billing practices;

16.1.l. Knowingly aid, assist, advise or allow a person without a current and appropriate state permit or license to engage in the practice of occupational therapy; or

16.1.m. Engaging in false, fraudulent, deceptive or misleading communications to any person regarding the individual's education, training, credentials, experience or qualifications, or the status of the individual's state permit or license.

~~1816.2.~~ 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 ~~18-17~~ 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~~17. Hearing Procedures.

~~19-1-17.1~~ 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~~17.

~~19-2-17.2.~~ 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.

~~19-3-17.3.~~ 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.

~~19-4-17.4.~~ Any concurring or dissenting opinions of the Board members shall be in writing and accompany the Board's final order.

§13-1-~~20~~18. Procedures For Judicial Review.

~~20-1-18.1.~~ 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, and may appeal any ruling resulting from judicial review in accordance with W. Va. Code §29A-6.

~~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:

West Virginia Board of Occupational Therapy



3041 University Avenue
2nd Floor, Suite 6
Morgantown, WV 26505
304-285-3150 (fax & phone)
www.wvbot.org

May 6, 2009

To: Secretary of State and the LRMRC

From: Kathy Quesenberry, MSM, OTR/L
WVBOT President

Re: Authority to file Legislative Rules

On behalf of the West Virginia Board of Occupational Therapy, please accept this letter authorizing the filing of Title 13 Legislative Rules, including Series 1 through 6, for consideration during the 2010 Legislative Session.

Sincerely,

Kathy Quesenberry MSM, OTR/L
Kathy Quesenberry, MSM, OTR/L
President



FILE

2009 MAY 15 AM 9:46

West Virginia Board of Occupational Therapy

3041 University Avenue
2nd Floor, Suite 6
Morgantown, WV 26505
304-285-3150
www.wvbot.org

OFFICE WEST VIRGINIA
SECRETARY OF STATE

TO: Judy Cooper

FROM: West Virginia Board of Occupational Therapy

DATE: May 12, 2009

RE: Legislative Rule Filing

As we discussed last Thursday, May 07, 2009, attached are three (3) copies of the Legislative Rule filing by the West Virginia Board of Occupational Therapy. The package includes an amended Series 1 Rule, and new Rules for Series 3 through 6, as we are proposing to break the existing Series 1 Rule into several more specific rules. Please forward one copy to the Legislative Rule Making Review Committee and return one stamped copy to me at the address above.

If you need any additional information or have any questions, please do not hesitate to contact me at the number above.

Sincerely,

A handwritten signature in cursive script that reads "Vonda Malnikoff".

Vonda Malnikoff
Executive Secretary

enc.