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

Form #3

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

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

CITE AUTHORITY: W. Va. Code §30-28-7

AMENDMENT TO AN EXISTING RULE: YES X 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: ____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Vonda Malnikoff
Authorized Signature

West Virginia Board of Occupational Therapy

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

June 25, 2009

To: Secretary of State and the LRMRC

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

Re: Authority to file Agency Approved Legislative Rules

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

Sincerely,

Kathy Quesenberry

Kathy Quesenberry, MSM, OTR/L
President

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 6, 2009

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM:(*Agency Name, Address & Phone No.*) WV Board of Occupational Therapy
3041 University Ave.
2nd Floor, Suite 6
Morgantown, WV 26508
304-285-3150

LEGISLATIVE RULE TITLE: Administrative Rules of the Board of Occupational Therapy and Licensure of Occupational Therapists and Occupational Therapy Assistants

1. Authorizing statute(s) citation W.Va. Code § 30-28-7

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

   May 22, 2009

   b. What other notice, including advertising, did you give of the hearing?

   Board website: www.wvbot.org

   Newsletter to all licensees

   c. Date of Public Hearing(s) ***or*** Public Comment Period ended:

   June 18, 2009

   d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

   Attached 16 comments No comments received _____

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 10, 2009

f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Vonda Malnikoff, Executive Secretary
WV Board of Occupational Therapy
3041 University Ave.
2nd Floor, Suite 6
Morgantown, WV 26505
phone: 304-285-3150
fax: 304-285-3150
email: vmalnikoff@wvbot.org

g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing or comment period:

_____

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

_____

d. Attach findings and determinations and reasons:

Attached _____

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: July 6, 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 Agency Approved 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 and approved as an Emergency Rule)
Series 6	Ethical Standards of Practice

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

Sincerely,

Kathy Quesenberry, MSM, OTR/L

Martin Douglas, MS, OTR/L

Kathy Quesenberry, MSM, OTR/L
President

Martin Douglas, MS, OTR/L
Secretary / Treasurer

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

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

Type of Rule: [X] 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 WVBOT 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

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.~~2.6. "Clinician" means a person who actively practices occupational therapy within a clinical setting.

~~2.6.~~2.7. "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.~~2.8. "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.~~2.9. "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.~~8~~9.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.~~8~~9.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.~~9~~10. "Educator" means a person engaged in the teaching of occupational therapy within an accredited and/or approved educational program of occupational therapy.

2.~~10~~11. "Examination" means the certification examination administered by the NBCOT, or another nationally recognized credentialing body as approved by the Board.

2.~~11~~12. "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.~~12~~13. "In Collaboration With" means a formal working relationship in which there is regular consultation.

2.~~13~~14. "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.~~14~~15. "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.~~15~~16. "Limited Permit" means a time limited permit issued to a person upon determination by the Board that all requirements for licensure have been met except for the examination.

2.~~16~~17. "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.~~17~~19. "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.~~19~~20. "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.~~20~~21. "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.~~21~~22. "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~~ 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.

2.~~22~~23. "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 chiropodist 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.~~5~~4. 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 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-~~17~~19.

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.ea. 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~~10;

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 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~~12. Responsibilities of the ~~Licensee~~ Occupational Therapist, Occupational Therapy Assistant, or Limited Permit Holder.

~~13~~12.1. 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.

12.2. The occupational therapist is responsible for all aspects of occupational therapy service delivery and is accountable for the safety and effectiveness of the occupational therapy service delivery process. The occupational therapy service delivery process involves evaluation, intervention planning, intervention implementation, intervention review, and outcome evaluation.

12.2.a. The occupational therapist must be directly involved through a face-to-face visit with the patient during the initial evaluation and establishment of the intervention plan, and prior to any change in the plan, such as adding, changing, renewing, or discontinuing occupational therapy goals.

12.3. The occupational therapy assistant is responsible for delivering occupational therapy services under the supervision of and in partnership with the occupational therapist.

12.4. It is the responsibility of the occupational therapist and the occupational therapy assistant to seek the appropriate quality and frequency of supervision to ensure safe and effective occupational therapy service delivery.

12.4.a. The specific frequency, methods, and content of supervision may vary by practice setting and are dependent upon the

12.4.a.1. Complexity of client needs,

12.4.a.2. Number and diversity of clients,

12.4.a.3. Skills of the occupational therapist and the occupational therapy assistant,

12.4.a.4. Type of practice setting,

12.4.a.5. Requirements of the practice setting, and

12.4.a.6. Other regulatory requirements.

~~13~~ 12.4.b It is the responsibility of the ~~licensed~~ ~~O~~occupational ~~T~~therapist supervising an ~~O~~occupational ~~T~~therapy ~~A~~assistant with less than one year's experience to provide general supervision with direct contact at least every two weeks at the site of work and supervision available as needed by telephonic, electronic, or written communication. Documentation by the occupational therapist must reflect that this supervision has occurred.

~~13~~–12.4.c. It is the responsibility of the ~~licensed~~ ~~O~~occupational ~~T~~therapist supervising and ~~O~~occupational ~~T~~therapy ~~A~~assistant with increased skill development and mastery of basic role functions for the delivery of occupational therapy services to provide general supervision with monthly direct contact and supervision available as needed by telephonic, electronic, or written communication. Documentation by the occupational therapist must reflect that this supervision has occurred.

~~13~~12.5. 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.~~12.6. 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.~~12.7. 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.~~12.8. 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.~~12.9. 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.

~~1~~413.1. 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~~13.2. A licensee shall exhibit the current licensure and/or renewal registration card when requested by the following:

~~14~~13.2.a. A Board member;

~~14~~13.2.b. An employee of the West Virginia Department of Health and Human Services;

~~14~~13.2.c. Any person upon whom the licensee performs occupational therapy; or

~~14~~13.2.d. An employer in whose employ the licensee practices or intends to practice occupational therapy.

~~14~~13.3. 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.

~~15~~14.1. 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~~ an amended license.

~~15~~14.2. 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.

~~18~~16.1. 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:

~~1~~816.1.a. Obtaining a license or limited permit by fraud, misrepresentation or concealment of material facts;

~~1~~816.1.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;

~~1~~816.1.c. Violating any lawful order or rule or regulation rendered or adopted by the Board;

~~18.~~16.1.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;

~~1~~816.1.e. Willful falsification, destruction or theft of property or records relating to the practice of occupational therapy or the health of the patient;

~~1~~816.1.f. Failure to exercise due regard for the safety, the life or health of the patient. Actual injury need not be established;

~~1~~816.1.g. Unauthorized disclosure of information relating to a patient or his or her records;

~~1~~816.1.h. Discrimination in the practice of occupational therapy against any person for reason of race, religion, creed, color or national origin; ~~or~~

~~1~~816.1.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.

~~1~~816.2. 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.~~

From: "Vonda K. Malnikoff" <vmalnikoff@wvbot.org>
Subject: WVBOT response to comments
Date: Tue, June 30, 2009 8:54 am
To: psisler@access.k12.wv.us,cwillmarth@aota.org,renome@hughes.net,jeffhopkins@pennswoods.net,donnajevans
Cc: briffle58@hotmail.com,genebrooks55@aol.com,ques@citlink.net,martindouglas@wvbot.org,psimpson40@ver

Attached please find a letter from the WVBOT in response to your recent comments regarding the proposed changes in our Legislative Rules. The second attachment is the applicable sections of the Series 1 Rule with modifications as a result of the comments received. Please read the letter first as it has further explanation of the modifications and the legislative process for making Rule changes.

On behalf of the Board, thank you again for your input. Please call if you have any further questions.

Sincerely,

Vonda K. Malnikoff
Executive Secretary, WVBOT
3041 University Ave.
2nd Floor, Suite 6
Morgantown, WV 26505
304-285-3150
vmalnikoff@wvbot.org

Attachments:

response to comments.doc	
Size:	118 k
Type:	application/msword
revisions_comments.doc	
Size:	33 k
Type:	application/msword

West Virginia Board of Occupational Therapy

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

Date: June 30, 2009

Subject: Response to Legislative Rule Comments

The Board would like to express their appreciation to all those who took the time to review the proposed Legislative Rules and send input and comments during the recent open comment period. We recognize the importance of feedback from the field and encourage communication between licensees and the Board.

Upon the close of the comment period, the Board met to review and discuss all comments received. As most of the comments related to the proposed level of COTA supervision to be provided by the supervising OTR, that is the only area the Board will be making changes to in the submission of our Legislative Rules to the Secretary of State and Legislative Rule Making and Review Committee (LRMRC) in July. These Rules will then be reviewed by the LRMRC and presented to a Legislative sub-committee during interim meetings this fall, in preparation for introduction in the 2010 Legislative Session.

Attached are the revisions made as a result of the comments received. Please note that the only changes are to the definition of "Periodic Meetings to Review", section 13-1-2, 2.22, and Section 13-1-12, "Responsibilities of the Occupational Therapist, Occupational Therapy Assistant, or Limited Permit Holders. Therefore, the entire Series 1 Legislative Rule is not attached, only the revised sections.

In summary, the previously proposed co-visits every 30 or 45 days have been removed, while the responsibilities of the OTR have been more clearly defined in section 13-1-12. The Board's intent is to ensure that the supervising OTR is adequately involved in the treatment of their patients, not to limit the practice of COTA's or the provision of OT services. We hope that these modifications will enable OT's and COTA's to continue to work together to provide the highest quality occupational therapy care to our consumers in every setting.

Again, thank you for your valuable input, and please feel free to contact the Board if you have any further questions.

Sincerely,

Kathy Quesenberry, MSM, OTR/L
President

Martin Douglas, MS, OTR/L
Secretary / Treasurer

2.~~2~~122. "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~~ 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.

§13-1-~~13~~12. Responsibilities of the ~~Licensee~~ Occupational Therapist, Occupational Therapy Assistant, or Limited Permit Holder.

~~13~~12.1. 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.

12.2. The occupational therapist is responsible for all aspects of occupational therapy service delivery and is accountable for the safety and effectiveness of the occupational therapy service delivery process. The occupational therapy service delivery process involves evaluation, intervention planning, intervention implementation, intervention review, and outcome evaluation.

12.2.a. The occupational therapist must be directly involved through a face-to-face visit with the patient during the initial evaluation and establishment of the intervention plan, and prior to any change in the plan, such as adding, changing, renewing, or discontinuing occupational therapy goals.

12.3. The occupational therapy assistant is responsible for delivering occupational therapy services under the supervision of and in partnership with the occupational therapist.

12.4. It is the responsibility of the occupational therapist and the occupational therapy assistant to seek the appropriate quality and frequency of supervision to ensure safe and effective occupational therapy service delivery.

12.4.a. The specific frequency, methods, and content of supervision may vary by practice setting and are dependent upon the

12.4.a.1. Complexity of client needs,

12.4.a.2. Number and diversity of clients,

12.4.a.3. Skills of the occupational therapist and the occupational therapy assistant,

12.4.a.4. Type of practice setting,

12.4.a.5. Requirements of the practice setting, and

12.4.a.6. Other regulatory requirements.

~~13~~ 12.4.b It is the responsibility of the ~~licensed~~ ~~O~~occupational ~~T~~therapist supervising an ~~O~~occupational ~~T~~therapy ~~A~~assistant with less than one year's experience to provide general supervision with direct contact at least every two weeks at the site of work and supervision available as needed by telephonic, electronic, or written communication. Documentation by the occupational therapist must reflect that this supervision has occurred.

~~13~~ 12.4.c. It is the responsibility of the ~~licensed~~ ~~O~~occupational ~~T~~therapist supervising an~~d~~ ~~O~~occupational ~~T~~therapy ~~A~~assistant with increased skill development and mastery of basic role functions for the delivery of occupational therapy services to provide general supervision with monthly direct contact and supervision available as needed by telephonic, electronic, or written communication. Documentation by the occupational therapist must reflect that this supervision has occurred.

From: "Vonda K. Malnikoff" <vmalnikoff@wvbot.org>
Subject: Re: Comments on Legislative Rule
Date: Tue, June 30, 2009 8:59 am
To: "Kessler, Amanda" <akessler@hsc.wvu.edu>

Amanda,
Please find attached a letter from the WVBOT in response to your recent comments regarding our Legislative Rules. If you have any further questions, please call.

Sincerely,

Vonda K. Malnikoff
Executive Secretary, WVBOT
3041 University Ave.
2nd Floor, Suite 6
Morgantown, WV 26505
304-285-3150
vmalnikoff@wvbot.org

> Hello,
> Please accept my apology that I was unable to send this to you yesterday.
> Thank you for your consideration.
>
> Amanda Kessler Rogers, MS, OTR/L
> Assistant Professor and Academic Fieldwork Coordinator
> West Virginia University
>

Attachments:

response to student sup.doc	
Size:	117 k
Type:	application/msword

West Virginia Board of Occupational Therapy

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

June 30, 2009

To: Amanda Kessler Rogers

Subject: Response to Legislative Rule Comments

The Board would like to thank you for your input and comments during the recent open comment period for our Legislative Rules.

Upon the close of the comment period, the Board met to review and discuss all comments received. While the Board understands the complexity of placing students in fieldwork sites, we feel strongly that the current supervision requirements for OT students are necessary to protect consumers and promote the highest quality occupational therapy services in the state. Additionally, the Board believes allowing students to provide services in a setting without an on-site occupational therapy supervisor would prevent students from receiving the full benefit of the fieldwork experience and would decrease the value of occupational therapy services.

With respect to your comment regarding section 30-28-9 of the Practice Act, Persons and practices not affected, this section is to exempt students from licensing requirements, not supervision. This corresponds with section 13-1-10 of the Legislative Rules. Also, the supervision definitions in the Legislative Rules define requirements of the licensed occupational therapists and occupational therapy assistants in the state, whom the Board does regulate.

Again, thank you for your comments, and please feel free to contact the Board if you have any further questions.

Sincerely,

Kathy Quesenberry, MSM, OTR/L
President

Martin Douglas, MS, OTR/L
Secretary / Treasurer

Vonda,
Thanks for your message. AOTA's Model State Regulation was last updated in 2005, so you have the most recent version. However, the official AOTA document that the regulation is based was edited by AOTA's Commission on Practice in 2008. I've attached a copy of the document Guidelines for Supervision, Roles, and Responsibilities During the Delivery Of Occupational Therapy Services. To me the most significant change was clarifying that "aides do not provide skilled occupational therapy services" the provisions regarding OTAs have not changed substantially.

With regards to your proposed changes, AOTA believes that occupational therapy assistants deliver occupational therapy services under the supervision of and in partnership with occupational therapists. Occupational therapists and occupational therapy assistants are responsible for collaboratively developing a plan for supervision. We think that there should be flexibility in the amount and type of supervision.

I do understand that regulatory boards prefer standards that are measurable (ie "these meetings shall occur every 30 days or 10 treatment sessions") but that is not the position that AOTA has articulated through the Model Guideline and our Official Document.

The Supervision document states:

The specific frequency, methods, and content of supervision may vary by practice setting and are dependent on the
a. Complexity of client needs,
b. Number and diversity of clients,
c. Skills of the occupational therapist and the occupational therapy assistant,
d. Type of practice setting,
e. Requirements of the practice setting, and
f.Other regulatory requirements.

the document goes on to state:

Supervision that is more frequent than the minimum level required by the practice setting or regulatory agencies may be necessary when
a. The needs of the client and the occupational therapy process are complex and changing,
b. The practice setting provides occupational therapy services to a large number of clients with diverse needs, or
c. The occupational therapist and occupational therapy assistant determine that additional supervision is necessary to ensure safe and effective delivery of occupational therapy services.

I hope this helps and I urge the Board to consider adding flexibility to the state's supervision requirements by utilizing concepts from AOTA's document when modifying the legislative rules.

Chuck Willmarth
Director, State Affairs and Reimbursement and Regulatory Policy
AOTA

To whom it may concern
I am writing in response to the proposed changes that that board would like to make with supervision guidelines of Occupational Therapy Assistants regarding periodic meetings. As a school based Occupational Therapy Assistant I would like to share my concerns and in my opinion it would be a mistake to make this change and limit the ability of the COTA to provide services without the direct supervision, at least monthly. In turn this limits the ability of the Supervising OTR to also provide direct services for clients, as a big part of their time will be spent providing direct supervision and completing evaluations.

As a seasoned 15 + year COTA working in the public school system 14 of those 15 years this is just not productive for either the OTR or COTA. These new guidelines would make it nearly impossible for Occupational Therapy Assistants working in the school systems to continue working in school systems or for school systems to consider employing a COTA. The school system is a very different field to work in, especially in outer lying rural areas. On some days a therapist may visit two, three or four different schools, providing service for only one student at each school. Some students may only receive service one time per month or one time per semester (every 9 weeks). As you can see, if a COTA had a caseload with the majority of visits only one time per month this would mean that an OTR would need to travel with the COTA ALL the time.

The generalize supervision policy that has been in place over the past years has worked well. At the very most Supervision should be based on a therapist individual needs and years of experience with in the field that they provide service. It would seem to me that the board would be limiting facilities, Agencies and school systems from hiring a COTA due to cost effectiveness and practicality. This in turn will leave a huge number of new grads in a tough position to find employment along with season therapist as myself being limited to what field they would like to practice in, if facilities even see the benefit of hiring a COTA with such strict supervisionguidlines.
This is a potentially very impacting change to school based therapist especially and I would appreciate that any special considerations that you may be able to make for school base therapist would be greatly appreciated.
Thank you for your time.

Rebecca Nohe Metheny
renome@hughes.net

Hello,

As a school based occupational therapist, I would like to share my concerns regarding the "periodic meetings to review". This change could be very detrimental in the school based therapists. It would be very difficult for me to provide the services that I should as my time would be taken up with completing evaluations and going to my COTA's sessions. In addition, this would impact COTA's providing services in the school based system as it would be more beneficial to have OT's providing the services and covering individual caseloads for time management. Generalized supervision has worked well and we all collaborate very well regarding the services being provided. If this policy is going to change, I would appreciate that you make special consideration for school based services.

This is a potentially very impacting change. In the future, I would like the board to make every effort to email me personally and paper mail the specific changes being considered.

Thank you.

RECOMMENDATIONS REGARDING SUPERVISION OF COTA BY OTR.

I am an OTR in a school system and in reviewing the guidelines for supervision of a COTA by an OTR, I have some concerns.

For me to meet with and supervise a COTA after the COTA performs 10 treatments or to meet and supervise them every 30/45 days, depending on the amount of experience in the setting, would require that I cancel a week's worth of treatments each month. In the school system the OTR is legally bound to provide the number of minutes listed on a child's IEP and having to miss a week of treatment each month in order to supervise a COTA, would be impossible, because I would not be able to see the students for the required number of minutes. This is due to the high number of students seen and the number of schools served.

The School Administration might question the need for that level of supervision and could choose not to hire COTA's. Having the effect of restricting employment among COTA's is counter productive.

Some parents might question the quality of services of a COTA versus an OTR if that degree of supervision is needed. The parents could also question the services of the OTR if the OTR has to cancel treatments to supervise a COTA.

Also, I usually supervise an OT student in the field every year. I would be unable and unwilling to supervise an OT student for field work if this level of COTA supervision becomes a rule, because I would spend so much time supervising the COTA and the OTS that I could not perform my duties.

Presently I meet face-to-face with the COTA that I supervise, each week, and we speak by telephone between meetings when necessary. I review and sign the COTA's daily progress notes so I have an idea of what is happening with each student. This system has worked for us for ten years.

I urge that the amount and kind of supervision given a COTA be reconsidered.

Janet Hunt, OTR/L

To WVBOT members,

You have ask for commits on new rules that is being worked on. I think that most of it is good for all. I do how ever think that OT's patients in southern WV will bear the worst if we do go to a 10 visit rule. This is due to the large area that has to be cover by OTR's and COTA alike. I myself work in SNF and do PRN for home health. In the SNF it would make it very diff cult to get OTR in the building every time due to the fact that all the OTR I have work a full time job and do PRN for us like all the rest of us. So The 10 visit could cause some pt. to go unseen at times due to scheduling problems. The same might happen home health as well. I do know many PT's and PTA's that are already deal ling with a 10 visit rules all of them hate it. I would like to that I think every OTR know their COTA that they work with and trust them to carry out the POC and to give the pt. good care or that OTR would not be supervising them. I do agree with the 30-45 day rule and that all not be co-signed. I myself work with 3-4 OTR's and we all work together very well. In closing I believe that if we went to a 10 visit rule it would be like we are following PT and making there mistakes all over, and we all know that we do not want to follow we want to lead when it come to our pt.

Johnnie McDaniel COTA/L in southern WV wyoming and raleigh county

Hello,

I am writing in regard to the proposed change in supervision of COTAs. As the Co-ordinator of Occupational and Physical Therapy for Kanawha County Schools acting under the direction of Sandra Boggs, Director of Exceptional Students for Kanawha County Schools, I would expect this change would dramatically affect the way Occupational Therapy Services are delivered in our county. Each COTA and OTR are itinerant and have separate caseloads of students (and schools) that require Occupational Therapy as per the student's Individual Education Plan (IEP). By requiring the Occupational Therapist to meet with the COTA during a treatment session whether it will occur each 30 or 45 days would significantly reduce the time that each therapist allows to serve their students. This being my 35th year with Kanawha County Schools and acting as the OT/PT Co-ordinator for that last 25 years, the current operating practice has been very efficient and has provided best case practice for both the OTR and COTA. I urge the Licensure Board to consider the operating practice of School-Based Occupational Therapists and COTAs when making their decision.

Hi Vonda, hope you are well. I am very concerned about the change in Periodic Meetings to Review. In the school system, it will be almost impossible to meet the 45 days or 10 treatment session rule. We use to have PTAs in our school system but found that there was no point hiring them because of a similar resistive rule. Please ask the board to reconsider. The old language has worked very well for us and feel that we are all professional enough to meet more often as needed. Mary Hager

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Hello. I am writing in regards to the proposed changes under â€œPeriodic meetings to reviewâ€ . I feel that this proposed change would be detrimental to our profession, specifically as a school-based therapist. The old policy of â€œmeeting at least once monthly, depending on the specific needs or settingâ€ has worked perfectly fine. I do not understand what prompted such a significant change. I believe that as a school-based OT this would completely change the way I practice. No longer would I be able to treat students because my time would be consumed by completing evaluations and going to my COTAâ€™s therapy sessions. I also feel that this change would force COTAâ€™s to lose their jobs, causing a shortage in our ability to provide effective OT services. I believe we, as OTâ€™s, as competent and knowledgeable enough to handle situations when they arise. I feel that if this policy is not going to change, that the board at least make a special consideration for what this may do to the school-based setting. Lastly, I did not receive any information on this proposed change. If a change is going to take place that is this large in magnitude, could the board please make an effort to e-mail and paper mail the proposal to all of its licensees. Thank you for your time and consideration.

Claudette Pauley MOT, OTR/L
Occupational Therapist
Kanawha County Schools

Dear Board Members

My name is Donna Evans and I am an occupational therapist in Oak Hill. I am employed full-time by Fayette County Board of Education. I also have a private home based pediatric practice servicing Raleigh, Fayette and Clay counties. I am very of aware of the Boardâ€™s responsibility to protect the consumer, as I have served on the WV Board of Counseling for the past eight years as a lay member. Serving on a Board requires a lot of hard work and making tough choices; however, I strongly object to the proposed supervision changes for OT and COTA collaboration.

It is my professional opinion that by limiting the COTAâ€™s ability to provide services, especially in rural areas such as Fayette County, would be devastating for the public. In many areas of southern WV there are shortages of OTs and the only way to provide intervention is by utilizing assistants to assist us. To my knowledge, I am the only OT, which is currently providing services in Clay County.

I supervise two COTAâ€™s, both with over 9 yearâ€™s experience, one with 6 years in the school systems and the other with 2 years in the school system and 2 years with Birth to Three. Our supervision includes some direct supervision (school based - we are scheduled at the same schools at least once a week) and (private practice â€“ I see the children at least on a monthly basis) in addition we spend many, many hours a month verbally discussing our clients. Both of my assistants know that I am only a phone call away, if they have any concerns or problems. I feel this is adequate supervision and I would also argue that my COTAâ€™s abilities to implement therapy are as good as any occupational therapistâ€™s skills, including my own.

While researching the states surrounding WV, concerning their supervision laws, I found that, with the exception of Maryland, all the states had very similar supervision requirements to that of WV. My question to the Board: Why change what is currently working for many of us servicing the most rural areas of our state and providing a desperately needed service to the people of WV? To restrict our ability to utilize assistants would not protect the consumers but, in my opinion, would ultimately affect the ability to receive occupational therapy services thus inhibiting the consumerâ€™s ability to lead a full and functional life.

Thank you,

Donna J. Evans, MSOTR/L

Dear WVBOT Board members,

I am asking that you reconsider the requirements for supervision of COTAs, especially for those of us working in the school settings. Due to the nature of our setting and our inability to bill for Medicaid (a COTA is unable to bill Medicaid without the OTR present), I feel that this requirement is to restricting and has the potential for disrupted OT services. The requirement of the OTR to be present during a treatment session would require that the OTR must MISS/CANCEL sessions with her/his own students. This is a hardship - we both have over 40 students and do not service the same schools in the county. This would require the OTR to cancel all her morning/afternoon sessions to drive to a school that I am at, observe a treatment and then return to her school that she is scheduled to be working/treating. We are required to make missed treatment time up with the students - our minutes are part of the IEP. This is NOT an easy as it seems when you service 10 schools and have 40 students on your caseloads.

"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."

Again I am asking that you reconsider your requirements for supervision of a COTA in the school settings.

Thank you for your time and consideration. I appreciate all that you do for the Board and the Licensees.

Paula Sisler, COTA/L

Kathy,

More food for thought but rereading and thinking about what you said I realized that the OTR is not just going to miss a morning/afternoon of her session. She is going to miss a week of her students each month, since she is to see every patient on the COTAs caseload. This is not just observing one student is requiring her to observe the WHOLE COTAs caseload.

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..

So as you know missing students every 30/45 days and having to meet IEP minutes this is going to be a stressful situation. And I feel an undue burden on the therapist and employer. As an employer this is not cost efficient and may lead to COTAs losing jobs in the school system.

Don't get me wrong I am all about supervision and have been all my career. I maybe in a unique relationship with my OTR but we meet on a weekly basis (face to face) and discuss any issues. She signs all my notes daily/weekly. She is aware of all the students and knows what is going on with them. This type of supervision has worked well for us for 10 years. I think we also need to be aware of the limitations, environment/setting of work, and the employer and the cost of providing supervision in some settings where the COTA and OTR are not in the same building. Another concern is that COTAs keep getting their role limited by insurance and they maybe losing areas of employment and I would not want this to happen because of supervision guidelines.

Paula Sisler, COTA/L

From: psisler@access.k12.wv.us
Subject: follow up comments
Date: Mon, June 22, 2009 6:55 pm
To: vmalnikoff@wvbot.org

This email is a follow up from my previous one and an update from my conversation with Kathy.Kathy,Thank you for taking the time to talk with me. I really appreciate you and your service to the WVBOT.To recap: Upon decision with my OTRs, we just want the Board to know that the supervision that is currently being purposed would cause undue hardship for our team. We do not service/work in the same schools and this means that the OTR would be missing a week of treatment every 45 days to come with me to do the required supervision. Which means her children are missing therapy services and their IEP minutes are not being serviced.
I am asking that you reconsider the requirements for supervision of COTAs. I have been thinking that another option could be that the supervision be provided "prior to the annual review" of the students, "prior to the 701" in the nursing homes, etc. The "30-45" day requirement of supervision would still be met in each situation but would allow for flexibility in the scheduling of supervision. For example, I (the COTA) in the month of April had 3 IEPs, and May had 4 IEPs. So the OTR and I could have a blocked time to do the treatments and she would supervision and "see" the students. This would allow us to schedule students and the supervision throughout the year and the OTR would not be missing therapy sessions with her students for a week at a time.Since one of the reasons for the supervision requirement change is because some of the OTRs are not following through with their duties/responsibilities and placing the COTAs in situations were they are doing the paperwork and the OTR is not "putting eyes" on the patient this would also help in that situation, especially nursing home situations. The OTR is required to do the monthly 701 and if they are having the COTA do this, then the requirement of having the OTR supervise the COTA during a treatment session when a review is due would provide the most opportune moment for this to happen. The OTR is touching base with the patient (which the 701 is required) and supervising the COTA at the same time.As we discussed, many of the COTAs and OTRs that I have spoken with feel that this is a "punishment" for COTAs. That our supervision has become restrictive and are fearful of losing their jobs because employers are not going to want to have an OTR not doing "anything" but supervising treatment sessions - they are not being "PRODUCTIVE", which mean loss of revenue for the company. I am hoping that by changing the wording from specific time frame 30-45 days or 10-15 treatments and wording it as "prior to a review of the patient's ....." (IEP, 701, etc) will allow the flexibility of those settings and COTA/OTR schedules to fulfill the supervision requirement and get the OTR back into the patient's treatment plan.The other concern I have is that currently there is no accountability to show if the supervision is being provided. My suggestion is that just like we (the COTAs) have to have the OTRs that supervise us sign our renewal application, I think it would be a good idea the the COTAs sign the OTRs renewal application. This allows for cross reference and provides the Board with a record of who is supervising who and how many COTAs the OTR is supervising. Also a log should be included in with the renewal applications showing that the supervision has taken place. This log should be maintained by both the OTR and COTA and original signatures on both logs need to be present - No PHOTOCOPING the log by one or the other. This again will provide the Board with the necessary proof that the supervision is taking place, so that, if a complaint is ever made that supervision is not taking place the COTA and OTR are covered and documented that the supervision did actually occur.Another area that could be address is to increase the awareness of the OTRs responsibilities to the COTAs and their clients. This could be fulfilled by offering continue education around the state focusing on the OTRs responsibilities, OTR/COTA collaboration, supervision and any other areas that the Board fills that needs to be discussed.If you have any questions or would like to talk to me please feel free to call me.
Paula Sisler, COTA/L

Attachments:

Dear Board,

I am a COTA working in a Nursing Home and I wanted to let you know I disagree with the every 10 treatments their must be a on site co-visit with an OTR. I think if the OTR and COTA are actively working together their should not be a co-visit. I have not heard of any trouble with the way it is working right now. I one for if it is not broke why fix it. We maybe asking for more problems down the road. Maybe I'm out of the loop and have not heard of the problems and reasoning for the co-visits. I understand that Medicare might be pushing for this, but I think it's another cut back that Medicare is trying put on all Therapies. Or are we trying to be more like PT's. I went into Occupational Therapy and not PT, so why does it seem we have to bow down to Physical Therapy. In ending I think if an COTA and a OTR are working together to better the outcome of treatment for the patient then co-visits are not necessary. If the OTR thinks it is warranted for co-visits by all means it should be completed. Besides the OTR should be reading their notes and asking questions to the COTA about their patient. Their are limited amount of OTR's and COTA's in this state we need to be careful and not make it more difficult for all of us. I have only 15 years experience as an COTA and have seen lots of changes that have been good, but this one I have to disagree with.

Sincerely

Eric Richards COTA/L

Dear Vanda,
My comment may not be part of the "hot topic" yet it is in regards to initial supervision provided over the telephone. I notice this is not included in the new act and wanted to know how a supervising OTR/L will continue to provide initial supervision (co-visit) if not physically present to complete face to face initial collaboration of the client. I do agree that the supervising OTR/L will need to complete face to face collaboration at 10 days and/or at 30 days and it is very realistic in the med rehab setting however, I am not certain that this will be easy in other setting such as home health but just would like feedback in regards this issue.
Thanks
Sarah VanR. M Black MOT, OTR/L

To: West Virginia Board of Occupational Therapy

From: Jeff Hopkins MS, OTR/L School Therapy Services

Date: June 16, 2009

Re: Proposed changes to supervision guidelines

I have reviewed the proposed changes in supervision guidelines and would like to bring several points to the attention of the Board and suggest some potential revisions. I have discussed the proposed revisions and the impact of those revisions with our staff. We currently have 13 OTR's and 14 COTA's, out of our total of 43 staff, who practice in six West Virginia counties. I will speak to the impact of this rule from the perspective of a therapist who works in a school system setting.

The area that presents some difficulty to us is within Series 1 and is labeled 2.22. Specifically at about the middle of this paragraph, the words "must occur during a treatment session with the patient" represent a significant change from the current rules. This kind of supervision, when compared with definitions of "Direct Close Supervision" and "Direct Continuous Supervision" would seem to be more restrictive than the "Close" and less restrictive than the "Continuous". It clearly falls within the realm of "Direct Supervision". Application of this definition of supervision would require on site, all day presence of the OTR in order to be able to be present "during the treatment session, for each client. There would no longer be the option for "general supervision", as defined in 2.12. General supervision would only be useful as additional supervision beyond the supervision "during the treatment session with the patient" that would need to be done every 30 or 45 days.

For our group, working only in the school systems, we meet with educational teams and set goals for students that are designed to be met within 1 year. It is expected that progress in the OT goal areas is paced this way and is not to compete with the child's other educational experiences. Service frequencies vary from as little as 2 times during the school year, to as much as two 45 minute sessions in a week (rare). This is in contrast with many clinical situations where the goals are set for much shorter periods of time and the intensity of the service provided is much higher. It seems quite reasonable that an OTR supervisor would be present to see progress of a patient who is expected to change significantly within a 30 day time period.

Our records indicate that there are less than 70% of the days when all students on a particular schedule are present. These absences, when considered under the new rules, would require the OTR, who came to do supervision on our usual 28 day cycle, to return within 2 days to see the COTA and that student directly. In the current system, we handle the absent student with general supervision, including discussion, review of recent work and chart review. It would be very difficult to schedule the COTA and OTR to return within 2 days, or in cases when the supervision is scheduled on a Friday, not possible at all to remain within compliance. This situation would make it necessary to discontinue the use of COTA's to provide treatment in smaller schools, or more remote areas.

School Holidays present another difficulty for seeing students directly at 30 day intervals. We may be able to adjust for this by scheduling more frequent supervision to allow for these difficulties. The impact on county budgets, in taking this action, would not be favorable as our billing rates are higher for OTR time than for COTA time. There are significant concerns about asking counties to increase budgets for OT services during these difficult economic times. From the perspective of those that set the budgets, the extra money would not be bringing them an increase in types of service or numbers of students served. It is our experience over the past 27 years of practice in the schools that the boards of education are not pleased about allocating extra money for things that they don't understand.

Our current pattern of supervision, under the guidance of the old rules, provided for initial direction for all COTA's at the beginning of each school year for all of their caseload, or as new students are added. This was accomplished in a face to face meeting with charts available to review or on site if the situation warranted. COTA's who have experience are scheduled to have direct supervision alternating with general supervision on 28 day intervals. General supervision may also be substituted for direct supervision for situations where direct supervision is not practical such as snow days and school closings at the OTR's discretion. COTA's with less experience would receive a higher ratio of Direct and less General Supervision. Direct Supervision is increased during any unexpected changes in student condition or progress, and also during the period of review and revision of goals. We also comply with the 2 week rule for therapists with less than 1 year of experience. This system lets us comply with the 30 day interval for supervision and to allow the OTR to make judgments on a case by case basis about the need to increase the frequency or type of supervision provided. This system has successfully passed all Maryland and Office of Inspector General audits as well as Medical Assistance Audits since 2005 when these audits started to look at supervision documentation.

We are also concerned that the supervision guidelines that accompany COTA license renewal indicate "requires at least monthly direct supervision". In the legislative rules section 2.9a and 2.9b, direct supervision seems to be oriented toward licensed personnel (OTR and COTA) supervising limited permit holders, students and aides. There was not any mention about how direct supervision would apply to the OTR: COTA relationship. There is another term "direct contact" that is used in section 12.2 and 12.3, which does not have further definition as far as I can tell. If direct contact would be considered the same as Maryland's term "face to face", without the mandatory "at the site of work" requirement , this would allow flexibility to remain in compliance in the face of student absences, snow days and the inevitable holiday that fowls up the 28 day interval that we strive to comply with.

In summary, I would hope that some level of OTR discretion could be included in the supervision policies to allow for the multiple factors addressed above. It will always be important to provide a quality service that benefits those we serve at a price that makes it possible for them to receive the service. Please feel free to contact me if I can offer any further suggestions or clarification. I would be more than happy to participate.

Dear WVBOT members,
I am commenting on section 2.22 (Periodic Meetings to Review-page 3 of 15) of the Amended Administrative Rules to be submitted in the 2010 Legislative session. I am a licensed OT in this state and I practice primarily in the pediatric setting (BTT and schools). I work prn at some of the local skilled nursing facilities. I do not feel that it is necessary to impose a face to face meeting every 10 treatment sessions or every 30 days. We are not PT's. I feel that general supervision is appropriate for OTA's with three years of experience or more. I feel that the current guidelines are adequate for OTA'S regardless of experience. The current supervisory statement relates that an OTA with less than one year of experience requires direct supervision at least every 2 weeks and it does not state physical presence with patient. The proposed new guidelines will not only hinder OTA's from carrying out their role of treatment implementation, but such guidelines will truly limit the number of patients that receive occupational therapy services and I would have discharge a large number of pediatric clients from my caseload (based on inability to adhere to such guidelines) and I would also have limit the number of patients on caseload at the local snf as well. I provide birth to three services to children in rural areas and the frequency of service delivery would be drastically affected. I feel that more stringent supervisory visits with OTA'S should be left to the discretion of the licensed supervising OT. OTA's are an integral part of the OT profession and more stringent guidelines will only diminish their credibility and limit our effectiveness. Thank you for your time and consideration.
Sincerely,

Andrea Logwood, MOT, OTR/L

2.22 "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.

Dear WVBOT , I am writing to provide you valuable feed back about the proposed rules to be introduced in 2010 legislature to compliment the updated practice act for the practice of Occupational therapy in the state of West Virginia. I have reviewed all of series 1 - 6 and I have only one major concern regarding the administrative series 1. I am concerned that the change in the way our supervision/collaboration requirements must be completed. It is my understanding that these changes are being purposed in partial response to some trends that wvbot has noted like OTR's sometime supervising as many as 16 OTA's, which I agree can be questionable about the quality of services delivered. This in mind I am not convinced that limiting OTA practice with requirement of face to face meetings is the right way to approach this issue.

When I read series 1 page 3 paragraph 2.22 which deals with " Periodic meetings to review". Here are my concerns:

1. It is not clear if ..."initial direction can be completed via phone call" - as written I would have to assume that initial co visit would be face to face as well as all follow up. This a valuable option for most practice areas for initiation of services, temporary coverage of services provided to patients while primary therapist is unavailable.
2. I am concerned that this will effect the employ-ability of OTA's in certain practice area's because of not have a full time OTR on site. Mainly in school based practice, home health practices and possibly more rural buildings in skilled nursing.
3. This could result in reduce availability of services to residence of West Virginia as services will just not be offered.
4. This proposal of this rule makes me believe that the quality of services rendered by OTA's have been in question at times and therefore they are requiring additional supervision, when the real issue may be more related to irresponsible practitioners taking on to many patients on caseload.

I have developed some thoughts on talking points for consideration for the revision of this section :

1. Keep the 30 or 45 respectively and 10 visits for additional covisit to be completed, but continue current policy that these covists do not have to occur on site and/or inside treatment session. (Which is more restrictive than current Physical therapy requirement, of on site discussion in skilled setting)
2. Consider updating website utilizing web based registration for tracking of OTR's and the COTA's they supervise. I am not suggesting License registration, just supervision tracking. It would be an large initial expense for board to setup, but once completed it would allow quick efficient way for both the OTR and COTA to identify who they where supervising and how long or time frame. Example:

A www.wvbot.org website log on screen that leads to the following:

Name of logged on OTR (non changeable) Drop down list of current OTA's Drop down list of current OTA's Drop down list of current OTA's Drop down list of current OTA's Drop down list of current OTA's

"Submit" button that leads to another screen to insert location and practice area information.

OTA site

Name of logged on OTA (non changeable) Drop down list of current OTR Drop down list of current OTR Drop down list of current OTR Drop down list of current OTR Drop down list of current OTR "Submit" button that leads to another screen to insert location and practice area information.

This information can be compiled into almost any type of report and cross reference if necessary. Being user and password controlled this could only be accessed by responsible therapist.

3. Develop a recommendation for OTR's to limit their number of COTA's to 5 or less and track them via a live website.
4 Place a limit on the number of OTA's a OTR could supervise to 5 and track them via a live website.
5. Develop a rule that states that the evaluating OTR must release the POC or/and that the Primary supervising OTR must assume the POC and both be must be physically present in building for the transfer of service to take place. (This type of rule would help reduce having OTR's just do evaluation and not seeing patient again, therefore ensuring that patient is receiving the best possible care.)
6. Develop or re state that a COTA may contribute to a discharge summery through the last progress note but not complete the summery.

In closing I am asking that the Board of Occupational therapy reconsider the requirement of co visits being completed in side of treatments and continue to allow supervision they way it happens at this time. Please feel free to contact me if there are question about my suggestions.

That you for your time and consideration:

Jeffery T Black COTA/L

Student Supervision in WV
June 17, 2009

Currently students in the state of WV must have an OT/ OTA in the building in order to participate in client evaluation and intervention during their fieldwork rotation, regardless of the level of competency that has been established by the supervising OT/ OTA. The WV Legislative Rule defines this as Direct Continuous Supervision which then progresses to Direct Close Supervision. Most states choose not to address students in their Rules as students are exempt from licensure. Thus adding definitions regarding student supervision into a State Rule can be problematic. It can limit the independence of a competent student and prevent the potential of emerging practice areas that are initiated by the structure of a student fieldwork program. It is also currently preventing WVU from complying with a RHEP (Rural Health Education Program) Initiative in the School of Medicine that requires all students to complete a rural health rotation.

WVRHEP/AHEC is a robust community based health professions training system throughout West Virginia funded by both state and federal funds. Our students and medical residents learn to become highly qualified rural health professionals while they serve rural communities. We are a partnership of rural community leaders, practicing health professionals, higher education schools and programs and state policy leaders. Our mission is to exercise our social responsibility to the state's citizens by increasing the number of WV trained health professionals in practice in rural underserved communities in our state. We are the only statewide publically funded system of higher education to create degree required rural health rotations for all state supported health sciences students (taken from: http://www.wvrhepahec.org/whatisRHEP/index.asp). There are either not enough OT sites in the state that meet the rural requirements with an OT present in the building at all times or there could be a potential to utilize OT in the setting, but without an OT constantly on site it is off limits for OT students.

When a state does not include language in its Legislative Rule about student supervision, it is implied that the ACOTE Standards will be utilized. The following ACOTE Standards (2008) address site supervision for students on fieldwork:

B.10.19.	Ensure that supervision provides protection of consumers and opportunities for appropriate role modeling of occupational therapy practice. Initially, supervision should be direct and then decrease to less direct supervision as is appropriate for the setting, the severity of the client's condition, and the ability of the student.

B.10.20.	Ensure that supervision provided in a setting where no occupational therapy services exist includes a documented plan for provision of occupational therapy services and supervision by a currently licensed or credentialed occupational therapist with at least 3 years of professional experience. Supervision must include a minimum of 8 hours per week. Supervision must be initially direct and then may be decreased to less direct supervision as is appropriate for the setting, the client's needs, and the ability of the student. An occupational therapy supervisor must be available, via a variety of contact measures, to the student during all working hours. An on-site supervisor designee of another profession must be assigned while the occupational therapy supervisor is off site.

In addition, students must also comply with insurance mandates regarding supervision based on setting- such as line of sight for skilled nursing facility Medicare residents. The responsibility for determining when to decrease a physical presence always remains with the supervising OT/ OTA. As stated in 10.19, supervision should decrease but remain appropriate for the setting, severity of the client's condition, and the ability of the student.

In further inspection of the new WV OT Practice Act and proposed Legislative Rule, a contradiction appears to exist. In section 30-28-9. Persons and practices not affected (Legislative Rule), the wording states that "this article will not prevent or restrict the practice, services, or activities of... (2) Any person pursuing a course of study leading to a degree in Occupational Therapy from an accredited education program if the person acts under the supervision of a clinical supervisor or instructor of the accredited education program and is designated by a title which clearly indicates his or her status as a student..." This is contrasted by the definition of Direct Continuous and Direct Close Supervision (Legislative Rule) that clearly indicates restrictions on students as that of "physically present and in direct line of sight" progressing to "in the building." Another point to consider is that the new WV OT Practice Act does not define "student", hence how can you regulate what you do not define?

As there appears to be no current prevailing trend or data to support the current level of student supervision in this state, I propose two options:

A. Delete all language from the WV Legislative Rule that discusses student supervision on fieldwork. Students are exempt from licensure and need not be part of the Rule. The educational community, schools and ACOTE, are responsibly and attentively handling student supervision through the educational ACOTE Standards (2008). For at state, like WV, that has many residents in rural areas it is important that OT be one of the RHEP services that is offered to them along with other disciplines such as physician, nursing, and physical therapist.

B. Allow the current wording to remain in the WV Rule, but defer to ACOTE Standard B.10.20 for student supervision in a site that does <u>not</u> currently have OT services. While this may open up some emerging practice areas in this state, it is <u>still not likely</u> that WVU will be able to comply with the RHEP Initiative.

I appreciate the opportunity to be heard on this issue of student supervision in WV and thank you for your time.

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