

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

Form #7

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**FILED**  
2009 JUN 12 AM 10: 14  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

Effective Date

**NOTICE OF AN EMERGENCY RULE**

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

CITE AUTHORITY: W. Va. Code §30-28-6

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_ Series 3

TITLE OF RULE BEING PROPOSED: Fees for Services Rendered by the Board

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

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

During the 2009 Legislative Session, HB 2309 was passed, amending W. Va. Code §30-28, the West Virginia Occupational Therapy Practice Act. One of the amendments, as provided in §30-28-14, changes the license renewal period for licensees from annual to biennial. On 5/15/09, the Board filed a Legislative Rule to amend the renewal fees for a two-year renewal period, for consideration during the 2010 Legislative Session. However, in order to transition from a one-year to two-year renewal period, 2010 will be a transition year where some licensees will begin two-year license renewal and some will renew for one year, with their transition to two-year renewal occurring in 2011. This Emergency Rule is needed to set 2010 renewal fees accordingly. This rule will be replaced after the 2010 Legislative Session with the Legislative Rule referenced above. The Emergency Rule is required to maintain the financial stability of the Board during this transition period while our Legislative Rules are aligned with our amended Practice Act.

Use additional sheets if necessary

Vanda Malukoff  
Authorized Signature



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

TO: Secretary of State and the LRMRC

FROM: West Virginia Board of Occupational Therapy

DATE: June 10, 2009

RE: Brief Summary and Statement of Circumstances for Emergency Rule

During the 2009 Legislative Session, House Bill 2309 was passed, amending W. Va. Code §30-28, the West Virginia Occupational Therapy Practice Act. One of the amendments, as provided in §30-28-14, changes the license renewal period for Occupational Therapists and Occupational Therapy Assistants from annually to biennially. On May 15, 2009, the Board filed a Legislative Rule (Title 13, Series 3, Fees for Services Rendered by the Board) to amend the renewal fees for a two-year renewal period, for consideration during the 2010 Legislative Session. Although the proposed fees are being increased for a two-year period, the current annual fees are not being doubled. Based on the sound financial position of the Board, there will actually be a reduction in renewal fees for licensees of 22% and 25% for occupational therapists and occupational therapy assistants, respectively. The Board is not proposing any changes to other fees.

In order to transition from a one-year to two-year renewal period where licensees will be required to renew their license in either odd or even years, based on their year of initial licensure, 2010 will be a transition year. Even year licensees will renew for two years and odd year licensees will renew for one year, with their two year renewal beginning in 2011. The attached Emergency Legislative Rule is needed to set 2010 renewal fees accordingly. This Rule will be replaced after the 2010 Legislative Session with the Title 13, Series 3 Legislative Rule referenced above, at which time all licensees will be on a two-year renewal period. The two-year renewal fee in this Emergency Rule is the same as that proposed in the Legislative Rule. However, there is also a fee in the Emergency Rule for a one-year renewal that is only applicable to 2010, and therefore is not part of the proposed Legislative Rule. This fee is exactly half of the two-year fee.

This Emergency Rule is needed to maintain the financial stability of the Board during this transition period while our Legislative Rules are aligned with our amended Practice Act. If you have any further questions, please do not hesitate to contact the Board at the number above.

Sincerely,

*Kathy F. Quesenberry, MSM, OTR/L* *Martin Douglas, MS, OTR/L*

Kathy Quesenberry, MSM, OTR/L  
President

Martin Douglas, MS, OTR/L  
Secretary / Treasurer

**EMERGENCY RULE QUESTIONNAIRE**

DATE: 6/10/09

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Board of Occupational Therapy

3041 University Ave., 2nd Floor, Suite 6

Morgantown, WV 26505

304-285-3150

Contact: Yonda Malnikoff, Executive Secretary, ymalnikoff@wvbot.org

EMERGENCY RULE TITLE: Title 13

1. Date of filing 6/10/09

2. Statutory authority for promulgating emergency rule:

W. Va. Code §30-28-6

3. Date of filing of proposed legislative rule: 5/15/09

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

5. Has the same or similar emergency rule previously been filed and expired?

No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.

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

~~During the 2009 Legislative Session, HB2309 was passed, amending W.Va. Code §30-28, the WV Occupational Therapy Practice Act. One of the amendments, as provided in §30-28-14, changes the license renewal period from annually to biennially. The Legislative Rule, Title 13, Series 3, was filed by the Board on 5/15/09 to amend the renewal fees accordingly. This Emergency Rule is needed to set renewal fees for 2010 to transition from a one year to two year renewal period until the Legislative Rule is aligned with the amended Practice Act during the 2010 Legislative Session.~~

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

~~The WV Board of Occupational Therapy exists to regulate and license persons providing occupational therapy services to the general public in WV, to protect consumers, and to assure the highest degree of professional care and conduct on the part of occupational therapists and occupational therapy assistants. The Board is funded entirely by fees paid by licensees. The Board must maintain financial stability during the transition from a one-year to two-year renewal period.~~

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APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Title 13, Series 3 Fees for Services Rendered by the Board

Type of Rule:  Legislative  Interpretive  Procedural

Agency: West Virginia Board of Occupational Therapy

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

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

**Fiscal Note Summary**

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

Based on the financial position of the West Virginia Board of Occupational Therapy, a self-funded Board, a reduction in license renewal fees for Occupational Therapists and Occupational Therapy Assistants is proposed by this Rule. There will be a one-time increase in revenue during FY2010 as the Board transitions from a one-year to a two-year renewal period.

**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	15,000.00	10,000.00	10,000.00

Rule Title: \_\_\_\_\_

Rule Title:

Title 13, Series 3 Fees for Services Rendered by the Board

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

Estimated change in revenue is a result of 1) a transition to a biennial license renewal as provided in amended Practice Act, and 2) a reduction in license renewal fees.

In FY2010, we will see a one-time increase in revenue as we transition to a two-year renewal period.

In FY2011 and beyond, we will see a reduction in annual revenue as a result of a proposed reduction in renewal fees based on the financial position of the Board.

### 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: 6/10/09

Signature of Agency Head or Authorized Representative

Vonda Malukoff

FILED

2009 JUN 12 AM 10:14

TITLE 13  
LEGISLATIVE RULE  
BOARD OF OCCUPATIONAL THERAPY

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

SERIES 3  
FEES FOR SERVICES RENDERED BY THE BOARD

**§13-3-1. General.**

1.1. Scope. -- This legislative rule establishes the fees to be charged by the Board for services rendered.

1.2. Authority. -- W. Va. Code §30-28-6.

1.3. Filing Date. --

1.4. Effective Date. --

fee of one hundred forty dollars (\$140.00) for a two-year license and seventy dollars (\$70.00) for a one-year license; and

2.4.b. Licensed occupational therapy assistant a fee of one hundred twenty dollars (\$120.00) for a two-year license and sixty dollars (\$60.00) for a one-year license.

2.5. Late renewal a fee of one hundred dollars (\$100.00).

2.6. Verification of licensure a fee of thirty dollars (\$30.00).

2.7. Mailing list fees:

2.7.a. Paper list a fee of one hundred dollars (\$100.00); and

2.7.b. Mailing labels a fee of one hundred ten dollars (\$110.00).

2.8. Insufficient funds penalty a fee of twenty five dollars (\$25.00).

2.9. Duplicate license cards a fee of twenty five dollars (\$25.00).

2.10. Duplicate certificate a fee of thirty dollars (\$30.00).

**§13-3-2. Schedule of Fees for Services Rendered by the West Virginia Board of Occupation Therapy.**

Fees collected by the Board are not refundable.

2.1. Initial licensure fees:

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

2.1.b. Licensed Occupational Therapy Assistant a fee of two hundred dollars (\$200.00).

2.2. Limited Permit fees (to be applied to permanent license fee):

2.2.a. Occupational Therapist a fee of one hundred ninety dollars (\$190.00); and

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

2.3. Application packet a fee of thirty dollars (\$30.00).

2.4 License renewal fees for the year 2010 only:

2.4.a. Licensed occupational therapist a



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304-285-3150  
[www.wvbot.org](http://www.wvbot.org)

TO: Judy Cooper

FROM: West Virginia Board of Occupational Therapy

DATE: June 10, 2009

RE: Emergency Rule Filing

Attached please find sixteen (16) copies of an Emergency Rule filing by the West Virginia Board of Occupational Therapy to amend renewal fees for 2010. Please forward one copy to the Legislative Rule Making Review Committee and return one stamped copy to me at the address above.

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

Sincerely,

  
Vonda Malnikoff  
Executive Secretary

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