

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

Form #2

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2009 MAY 15 AM 9:47

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

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

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

AMENDMENT TO AN EXISTING RULE: YES  NO

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

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

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: Series 4

TITLE OF RULE BEING PROPOSED: Continuing Education and Competence

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

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

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

*Kendra Malnikoff*

Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



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: May 12, 2009

RE: Brief Summary and Statement of Circumstances

During the 2009 Legislative Session, House Bill 2309 was passed, amending §30-28, the West Virginia Occupational Therapy Practice Act. In order to align our Title 13 Legislative Rules with the amended Practice Act, we have filed 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 ( <b>New Rule attached</b> )                |
| Series 5 | Competency Standards for Advanced Practice<br>(also filed as an Emergency Rule) |
| Series 6 | Ethical Standards of Practice   |

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

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

Sincerely,

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

Kathy Quesenberry, MSM, OTR/L  
President

*Martin Douglas, MS, OTR/L*

Martin Douglas, MS, OTR/L  
Secretary / Treasurer

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Title 13, Series 4 Continuing Education and Competence

Type of Rule:  Legislative  Interpretive  Procedural

Agency: West Virginia Board of Occupational Therapy

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

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

**Fiscal Note Summary**

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

These changes will not effect the costs and revenues of state government as WV BOT is a self-funded Board.

**Fiscal Note Detail**

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

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

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

Rule Title:

Title 13, Series 4 Continuing Education and Competence

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

FILED

TITLE 13  
LEGISLATIVE RULE  
BOARD OF OCCUPATIONAL THERAPY

2009 MAY 15 AM 9:47

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

SERIES 4  
CONTINUING EDUCATION AND COMPETENCE

**§13-4-1. General.**

1.1. Scope. -- This legislative rule establishes requirements for continuing education and competency for renewal of licensure of occupational therapists and occupational therapy assistants.

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

1.3. Filing Date. --

1.4. Effective Date. --

**§13-4-2. Definitions.**

As used in this rule:

2.1. "AOTA" means the American Occupational Therapy Association.

2.2. "Audit" means the selection of licensees for verification of satisfactory completion of continuing education and competency requirements during a specified time period.

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

2.4. "Contact hour" means one (1) hour spent in a continuing education activity that meets the requirements of the Board as outlined in this rule. It excludes refreshment breaks, receptions, other social gatherings, and meals that do not include an acceptable educational activity.

2.5. "Continuing education and competency" means those learning activities intended to build upon the educational and experiential basis of the occupational therapist or occupational therapy assistant for the enhancement of practice, education, administration, research, or theory

development.

2.6. "Formal self-study" means a program of learning designed for the occupational therapist or occupational therapy assistant who completes the program at the individual's pace, e.g., AOTA self-study series, on-line courses, etc.

2.7. "Informal self-study" means a program of learning designed by the licensee to enhance knowledge and skill in a specific area. These activities may include, but are not limited to, reading professional journals, observing other therapists, and viewing videotape quality assurance or peer review studies.

**§13-4-3. Continuing Education and Competency Requirements for Renewal of License .**

3.1. When a licensee applies for the renewal of an active license, that licensee shall certify to the Board his or her involvement in continuing education and competency activities in occupational therapy theory and practice and provide documentation upon the Board's request.

3.2. This section applies to all occupational therapists and occupational therapy assistants seeking to renew their licensure in West Virginia.

**3.3. Unit Requirements.**

3.3.a. Each licensee shall complete a minimum of twenty four (24) contact hours of continuing education and competency activities, as approved by this rule, during the two (2) year period preceding the application for renewal.

3.3.b. A licensee may carry over up to six (6) excess contact hours from one consecutive licensure period to another.

3.4. The Board shall exempt from the continuing education and competency requirements in subdivision 3.3.a. of this section, a licensee who qualifies for exceptions set forth in this subdivision.

3.4.a. A licensee who obtains a license for the first time in West Virginia during the first twelve months of any twenty-four (24) month reporting period shall complete twelve (12) contact hours in approved continuing education and competency activities, as set forth in this rule, before the end of the current reporting period.

3.4.b. A licensee who is serving on active duty with the military for more than three (3) months, but less than twelve (12) months of any twenty-four (24) month reporting period shall complete twelve (12) contact hours of approved continuing education and competency activities, as set forth in this rule, before the end of the current reporting period. A licensee who is serving on active duty with the military for more than twelve (12) months of any twenty-four (24) month reporting period is exempt from the continuing education and competency requirements for the entire reporting period. A licensee who claims this exception shall retain evidence of active duty with the military and shall present this evidence to the Board upon request.

3.5. Approval of Continuing Education and Competency Programs. 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 education and competency options as outlined in subsection 3.8. of this rule.

3.6. Documentation of Continuing Education and Competency Activities.

3.6.a. At the time of licensure renewal, a licensee who has completed the continuing education and competency requirement shall sign the licensure renewal application attesting to completion of the required contact hours.

3.6.b. Licensees shall obtain a certificate of completion from providers of continuing

education specifying the following information:

3.6.b.1. The dates of completion;

3.6.b.2. The title and location of the course;

3.6.b.3. The name of participant;

3.6.b.4. The name of provider;

3.6.b.5. The number of contact hours; and

3.6.b.6. The signature of the provider.

3.6.c. A licensee shall retain continuing education and competency supporting documents for a period of two (2) years after the date of renewal for inspection by the Board.

3.6.d. The Board may take formal disciplinary action if a licensee submits any false statement regarding continuing education and competency.

3.6.e. The Board may suspend or revoke the license of any licensee who fails to substantiate contact hours.

3.7. Audit of licensees. The Board may select any licensee who holds a current license to audit for compliance with continuing education and competency requirements.

3.7.a. The Board shall notify licensees being audited.

3.7.b. To comply with the audit request from the Board, a licensee shall submit legible copies of certificates of completion of continuing education programs, transcripts of courses taken, or other documentation substantiating completion of the continuing education and competency activity with his or her license renewal application.

3.7.c. If a licensee fails to submit the audit information requested by the Board or meet the requirements in subdivision 3.3.a. of this rule, the Board shall not renew a license before the audit

is completed.

3.7.d. A licensee who fails to notify the Board of a current mailing address is not absolved from the audit requirements. The Board shall not renew a license before the audit is completed.

### 3.8. Approved Continuing Education and Competency Activities.

3.8.a. Licensees may obtain continuing education and competency hours by their involvement in various types of programs and activities which are recognized by the Board as contributing to the development of professionals and updating competency in occupational therapy theory and practice.

3.8.b. A licensee may accumulate the total required contact hours per renewal period through participation in the activities listed in this section. The Board suggests that licensees accumulate hours from a broad scope and variety of activities.

#### 3.8.b.1. Workshops, Seminars, Conferences.

3.8.b.1.A. A licensee may earn one (1) hour of continuing education credit per hour of attendance at a workshop, seminar, or conference.

#### 3.8.b.2. University, College, or Vocational Technical Adult Education Courses.

3.8.b.2.A. A licensee may obtain credit by successfully completing university, college, or vocational technical adult education courses related to the practice of occupational therapy.

3.8.b.2.B. A licensee may earn three (3) hours of continuing competency credit per university, college, or vocational technical adult education credit hour earned.

#### 3.8.b.3. Educational Telecommunication Network Courses.

3.8.b.3.A. A licensee may obtain

credit by providing an outline or abstract of content from the course sponsor.

3.8.b.3.B. A licensee may earn one (1) hour of continuing competency credit per hour of education by telecommunication network courses.

#### 3.8.b.4. Videotaped Presentations of Educational Courses, Seminars, Workshops, and Conferences.

3.8.b.4.A. A licensee may obtain credit by providing an outline or abstract of content from the course sponsor.

3.8.b.4.B. A licensee may earn one (1) hour of continuing competency credit per hour of education by videotaped presentations of educational courses, seminars, workshops, or conferences.

#### 3.8.b.5. In-service Training.

3.8.b.5.A. A licensee may obtain credit by providing an outline or abstract of content from the in-service sponsor.

3.8.b.5.B. A licensee may earn one (1) hour of continuing competency credit per hour of education by in-service training.

#### 3.8.b.6. Presentations by licensees of Occupational Therapy Education Programs, Workshops, Seminars, In-service Trainings, Conferences, or Guest Lectures within appropriate curriculums.

3.8.b.6.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.

3.8.b.6.B. A licensee may earn two (2) hours of continuing competency credit for each one (1) hour presentation to allow for credit for preparatory work. For example, a one (1) hour presentation would qualify for two (2) hours of continuing competency credit.

3.8.b.6.C. A licensee may not obtain continuing competency credit for subsequent presentations of the same content.

3.8.b.6.D. A licensee may earn up to six (6) 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.

3.8.b.7. Publications Published or Accepted for Publication.

3.8.b.7.A. A licensee may earn up to a maximum of ten (10) hours of continuing competency credit for authorship or editorship or co-authorship or co-editorship of a book relating to occupational therapy.

3.8.b.7.B. A licensee may earn up to a maximum of five (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.

3.8.b.7.C. A licensee may earn up to a maximum of three (3) hours of continuing competency credit for authorship of an article, book review, or abstract in a weekly periodical or professional newsletter.

3.8.b.7.D. A licensee may earn up to six (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.

3.8.b.8. Research Projects.

A licensee may earn up to a maximum of six (6) hours of continuing competency credit per research project for work as project director, research assistant, principal, or co-investigator of a research project.

3.8.b.9. Quality Assurance or Program Evaluation Studies Completed and Published in a Journal or Newsletter.

A licensee may earn up to a maximum

of four (4) hours of continuing competency credit per study for quality assurance or program evaluation studies completed and published in a journal or newsletter.

3.8.b.10. Papers and Proposals for Conference Presentations.

A licensee may earn up to two (2) hours of continuing competency credit for each accepted paper or proposal for conference presentation.

3.8.b.11. Formal Self-Study.

3.8.b.11.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.

3.8.b.11.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.

3.8.b.11.C. A licensee may earn the full contact hour that is awarded by the provider.

3.8.b.12. Informal Self-Study.

3.8.b.12.A. A licensee may earn continuing competency credit for completion of a combination of other activities and independent learning projects. These projects may include, but are not limited to, a combination of reading, observing other therapists, viewing videotape quality assurance or peer review studies, and related professional activities which enhance knowledge and skill in a specific area.

3.8.b.12.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 six (6) contact hours in a renewal period. A licensee shall maintain a detailed log of activity including the type, subject,

and source of self-study.

3.8.b.13.. Clinical Instruction of Occupational Therapy Students and Occupational Therapy Assistant Students.

3.8.b.13.A. A licensee may earn continuing competency credit for participation as a clinical instructor for fieldwork level 1 and level 2 students.

3.8.b.13.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.

3.8.b.13.C. A licensee may earn two (2) contact hours per student for clinical instruction of level 1 occupational therapist student and occupational therapy assistant students. A licensee may not earn more than six (6) total contact hours in this category.

3.8.b.13.D. A licensee may earn six (6) contact hours per student for clinical instruction of level 2 occupational therapist or occupational therapy assistant students. A licensee may not earn more than twelve (12) total contact hours in this category.

### 3.9. Recency of Education.

3.9.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.

3.9.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 two (2) years, the Board shall request verification of the applicant's effort toward maintaining and updating occupational therapy continuing competency.

3.9.c. If the applicant has completed fewer than 24 hours of continuing competency contact hours within the two (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