

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

Form #3

Do Not Mark In This Box

FILED

2009 JUL -7 PM 12: 18

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 §30-28-6

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 6

TITLE OF RULE BEING PROPOSED: Ethical Standards of Practice

\_\_\_\_\_

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.

*Vanda Malnikoff*

Authorized Signature

# West Virginia Board of Occupational Therapy



3041 University Avenue  
2<sup>nd</sup> Floor, Suite 6  
Morgantown, WV 26505  
304-285-3150 (fax & phone)  
[www.wvbot.org](http://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,

A handwritten signature in cursive script that reads "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: Ethical Standards of Practice

1. Authorizing statute(s) citation W.Va. Code § 30-28-6

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 \_\_\_\_\_ No comments received X

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

July 10, 2009

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- 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

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WV Board of Occupational Therapy

3041 University Ave.

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2nd Floor, Suite 6

Morgantown, WV 26505

phone: 304-285-3150

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fax: 304-285-3150

email: vmalnikoff@wvbot.org

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- 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)

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- 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.

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b. Date of hearing or comment period:

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

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d. Attach findings and determinations and reasons:

Attached 

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**West Virginia Board of Occupational Therapy**

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

TO: Secretary of State and the LRMRC

FROM: West Virginia Board of Occupational Therapy

DATE: 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 have filed 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 as an Emergency Rule)
- Series 6 Ethical Standards of Practice (**Agency Approved Rule attached**)

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 6 Ethical Standards of Practice

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>			
<b>Effect of Proposal</b>	<b>Current Increase/Decrease (use "-")</b>	<b>Next Increase/Decrease (use "-")</b>	<b>Fiscal Year (Upon Full Implementation)</b>
<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 6 Ethical Standards of Practice

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

Vanda Malnikoff

**TITLE 13  
LEGISLATIVE RULE  
BOARD OF OCCUPATIONAL THERAPY**

**SERIES 6  
ETHICAL STANDARDS OF PRACTICE**

**§13-6-1. General.**

1.1. Scope. -- This legislative rule establishes Ethical Standards of Practice to establish and maintain a high standard of integrity and dignity in the profession and to protect the public against unprofessional conduct on the part of persons licensed by the West Virginia Board of Occupational Therapy as an Occupational Therapist or Occupational Therapy Assistant.

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

1.3. Filing Date. --

1.4. Effective Date. --

**§13-6-2. Definitions.**

As used in this rule:

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

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

2.3. "Occupational Therapy Assistant" means a person licensed to assist in the practice of occupational therapy under the general supervision of the licensed occupational therapist and who license is in good standing.

2.4. "Occupational Therapy Practitioners" means all persons licensed as an Occupational Therapist or Occupational Therapy Assistant in West Virginia.

**§13-6-3. Application.**

3.1. This rule applies to all persons who hold

a license, limited permit, or temporary license issued by the Board.

3.2. A violation of any ethical standard of practice constitutes grounds for disciplinary action.

**§13-6-4. Ethical Standards of Practice.**

4.1. Occupational therapy practitioners shall demonstrate a concern for the safety and well-being of the recipients of their services. Occupational therapy practitioners shall:

4.1.a. Provide services in a fair and equitable manner and shall comply with state and federal laws pertaining to discrimination;

4.1.b. Make every effort to advocate for recipients to obtain needed services through available means.

4.2. Occupational therapy practitioners shall take reasonable precautions to avoid imposing or inflicting harm upon the client or to his or her property. Occupational therapy practitioners shall:

4.2.a. Maintain therapeutic relationships that shall not exploit the recipient of services sexually, physically, emotionally, psychologically, financially, socially, or in any other manner;

4.2.b. Avoid relationships or activities that conflict or interfere with therapeutic professional judgment and objectivity;

4.2.c. Refrain from any undue influences that may compromise provision of service.

4.3. Occupational therapy practitioners shall collaborate with clients, caretakers or other legal

guardians in setting goals and priorities throughout the intervention process. Occupational therapy practitioners shall:

4.3.a. Fully inform the client of the nature, risks, and potential outcomes of any interventions;

4.3.b. Obtain informed consent from clients involved in research activities and indicate in the medical record that they have fully informed the client of potential risks and outcomes;

4.3.c. Respect the client's right to refuse professional services or involvement in research or educational activities;

4.3.d. Maintain patient confidentiality unless otherwise mandated by local, state, or federal regulations.

4.4. Occupational therapy practitioners shall perform occupational therapy services only when they are qualified by education, training, and experience to do so. Occupational therapy practitioners shall:

4.4.a. Hold the appropriate credentials for the services they provide;

4.4.b. Take responsibility for maintaining and documenting competence in practice, education, and research by participating in professional development and educational activities;

4.4.c. Protect service recipients by ensuring that duties assumed by or assigned to other occupational therapy personnel match credentials, qualifications, experience, and scope of practice;

4.4.d. Provide appropriate supervision to individuals for whom they have supervisory responsibility;

4.4.e. Refer to or consult with other service providers whenever such a referral or consultation would be helpful to the care of the recipient of service. The referral or consultation process shall be done in collaboration with the

recipient of service.

4.5. Occupational therapy practitioners shall comply with the West Virginia Occupational Therapy Practice Act, Legislative Rules, and all other related local, state, and federal laws.

4.6. Occupational therapy practitioners shall provide accurate information related to professional activities. Occupational therapy practitioners shall:

4.6.a. Represent their credentials, qualifications, education, experience, training, and competence accurately;

4.6.b. Disclose any professional, personal, financial, business, or volunteer affiliations that may pose a conflict of interest to those with whom they may establish a professional, contractual, or other working relationship;

4.6.c. Refrain from using or participating in the use of any form of communication that contains false, fraudulent, or deceptive statements or claims;

4.6.d. Accept responsibility for their professional actions that reduce the public's trust in occupational therapy services and those that perform those services.

4.7. Occupational Therapy Practitioners shall report to the Board acts constituting grounds for disciplinary action as defined in W. Va. Code §30-28-16, following complaint procedures as outlined in §13-2-5. As noted in subsection 5.1, anonymous complaints are accepted.