



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

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Office of West Virginia  
Secretary Of State

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

AGENCY: Occupational Therapy TITLE-SERIES: 13-07  
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: 13-07 Request for Waiver of Initial Licensing Fees for Certain Individuals

**PRIMARY CONTACT**

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CITE STATUTORY AUTHORITY: 30-28-7

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? Yes

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? Yes

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD:

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED:

COMMENTS RECEIVED:

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING:

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS:

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2024 Increase/Decrease (use "-")	2025 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
<b>2. Estimated Total Revenues</b>			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes  
 Vonda K Malnikoff -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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

**SERIES 7  
REQUEST FOR WAIVER OF INITIAL LICENSING FEES  
FOR CERTAIN INDIVIDUALS**

**§13-7-1. General.**

1.1. Scope. -- This rule establishes procedures for waiving the initial licensing fee for low income individuals and military personnel and their spouses.

1.2. Authority. -- W. Va. Code §30-1-23, and W. Va. Code §30-28-7

1.3. Filing Date. -- ~~April 8, 2020~~

1.4. Effective Date. -- ~~July 1, 2020~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon ~~July 1, 2025~~ August 1, 2035.

**§13-7-2. Definitions.**

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

2.2. "LIW" means the Low Income Waiver form used to request a waiver of the initial licensing fee for low income individuals, as authorized in W.Va. Code §30-1-23;

2.3. "Initial license" means an individual applying for an occupational therapist or occupational therapy assistant license in West Virginia sought for the first time;

2.4. "Local labor market" means every county in West Virginia, and any county outside of West Virginia if any portion of that county is within fifty miles of the border of West Virginia, pursuant to W.Va. Code §21-1C-2;

2.5. "Low-income individual" means an individual in the local labor market as defined in §21-1C-2, whose household adjusted gross income is below 130 percent of the federal poverty line. This term also includes any person enrolled in a state or federal public assistance program including, but not limited to, the Temporary Assistance for Needy Families Program, Medicaid, or the Supplemental Nutrition Assistance Program;

2.6. "Military families" means any person who serves as an active member of the armed forces of the United States, the National Guard, or a reserve component as described in 38 U. S. C. §101, honorably discharged veterans of those forces, and their spouses. This term also includes surviving spouses of deceased service members who have not remarried; and

2.7. "MFW" means the Military Family Waiver form used to request a waiver of the initial licensing fee for military service members and their spouses as described in §30-1-23.

**§13-7-3. Request for Waiver of Initial Licensure Fees.**

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3.1. The Board may issue a license to an applicant who meets the requirements of W. Va. Code §30-28-1 *et seq.* and the rules promulgated by the Board, and the Board shall waive the initial licensure fee if the applicant qualifies as a “low-income individual” or as an individual within the class “military families” as defined in this rule.

3.2. Low-income individuals, as defined in this rule, may seek a waiver of the initial licensure fee for licensure as an occupational therapist or occupational therapy assistant by submitting with their complete application the LIW form, provided by the Board, and all required documents as prescribed by this rule and the Board. The Board shall review the request for waiver and issue a decision within 30 days of receipt of the complete application.

3.3. Military families, as defined in this rule, may seek a waiver of the initial licensure fee for licensure as an occupational therapist or occupational therapy assistant by submitting with their complete application the MFW form, provided by the Board, and all required documents as prescribed by this rule and the Board. The Board shall review the request for waiver and issue a decision within 30 days of receipt of the complete application.

3.4. An applicant denied a waiver of initial licensing fees shall have 30 days to appeal the decision to the board pursuant to the provisions of W. Va. Code §30-28-17.

**§13-7-4. Required Documentation for Waiver of Initial Licensure Fees.**

4.1. Individuals requesting a waiver of initial licensure fees for low income or military service personnel and their spouses, shall submit with the application for licensure the initial licensure waiver LIW or MFW form and the appropriate documentation as specified in this section.

4.2. To establish low income eligibility for the initial licensing fee waiver, an applicant shall submit to the board evidence that the adjusted gross income of the household of the applicant is below 130% of the federal poverty level by submitting a Federal Tax Return or documentation of eligibility for:

4.2.1. Temporary Assistance for Needy Families Program;

4.2.2. Medicaid; or

4.2.3. Supplemental Nutrition Assistance Program

4.3. To establish military family eligibility for the initial licensing fee waiver, an applicant shall submit to the board proof of qualifying military service and proof of eligibility as a qualifying spouse or surviving spouse, as follows:

4.3.1. A service members DD-214 form;

4.3.2. A service members NGB-22 form;

4.3.3. A service members DD-1300 form; or

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4.3.4. A copy of their current military orders; and

4.3.5. A copy of the marriage certificate with the qualifying service member and, where applicable, the death certificate of the service member if the surviving spouse is requesting the military family waiver.

4.4. Honorably discharged applicants shall submit a completed application, and a DD-214 form or an NGB-22 form showing the applicant has been honorably discharged from military service.