



WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Occupational Therapy

RULE TYPE: Legislative

TITLE-SERIES: 13-01

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

CITE AUTHORITY: 30-28-7

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

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 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 §30-28-7.

1.3. Filing Date. -- ~~April 15, 2010.~~

1.4. Effective Date. -- ~~July 1, 2010.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon August 1, 2032.

§13-1-2. Definitions.

As used in this rule:

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

2.2. "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.

2.3. "Direct Supervision" means the actual physical presence of a licensed 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. Direct supervision includes direct continuous supervision and direct close supervision.

2.4. "Direct Close Supervision" means the licensed supervising occupational therapist or occupational therapy assistant is in the building and has daily direct contact at the site of work.

2.5. "Direct Continuous Supervision" means the licensed supervising occupational therapist or occupational therapy assistant, is physically present and in direct line of sight of the occupational therapy student or aide.

2.6. "General Supervision" means initial direction and periodic inspection of the activities of a licensed occupational therapist assistant by the supervising licensed occupational therapist, but does not necessarily require constant physical presence on the premises while the activities are performed.

2.7. "License" means a valid and current license issued by the Board under the provisions of W. Va.

Code §30-28-10.

2.8. "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.

2.9. "NBCOT" means the National Board for Certification in Occupational Therapy.

2.10. "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 or direct supervision.

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

2.12. "Occupational Therapy Aide" means a person who 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 direct supervision of an occupational therapist or an occupational therapy assistant, in accordance with the provisions of W. Va. Code §30-28-1 *et seq.*

2.13. "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 an occupational therapist.

2.14. "~~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.

2.15. "Supervisory Statement" is the form used to document the supervisory relationship between an occupational therapist and occupational therapy assistant.

§13-1-3. Powers and Duties of the Board.

3.1. The Board shall meet a minimum of two times a year ~~with the first meeting to be held during the month of January in order to~~ and elect a Chairperson and Secretary/Treasurer at the first meeting of the year.

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 W. Va. Code §30-1-1 *et seq.*

3.4. 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 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 prepare and submit upon Board approval an annual report to the Governor in accordance with W. Va. Code §30-28-6.~~

~~5.4. The Secretary/Treasurer is responsible for the preparation and submission of the annual budget to the Board.~~

§13-1-6. Executive Secretary.

The Board may hire a person to fill the position of 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.

6.3. The Executive Secretary, with the approval 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 weeks prior to a regular meeting regarding the time and place of the meeting.

6.6. The Executive Secretary shall notify members of special or emergency meetings and publish in the West Virginia Register.

6.7. The Executive Secretary shall prepare an agenda for each meeting.

6.8. The Executive Secretary shall prepare and submit an annual report to the Governor in accordance with W. Va. Code §30-1-12.

6.9. The Executive Secretary is responsible for the preparation and submission of the annual budget to the Board.

§13-1-7. Application for Licenses and Limited Permits.

7.1. The Board shall ~~furnish~~ make available 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~~ on the Board of Occupational Therapy's website.

7.2. The applicant shall complete the application ~~forms~~ available on the Board of Occupational Therapy's website and 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 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 electronically sign his or her application. An application for a limited permit and licensure as an occupational therapy assistant shall include a Supervisory Statement signed by the applicant's supervising practitioner. In the event ~~the~~ an occupational therapy assistant applicant is not employed, ~~the application shall be signed by the applicant and sworn by him or her before a notary public~~ no Supervisory Statement is required.

7.4. ~~The application shall be accompanied by payment to cover appropriate fees~~ applicant shall submit the appropriate fee as part of the application.

7.5. 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.

§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 to an applicant in a timely manner upon receipt of a properly completed application and payment of the appropriate fee if the applicant:

9.1.~~a~~1. 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;

9.1.~~b~~2. Has successfully completed a period of supervised fieldwork experience required by the recognized educational institution where he or she met the academic requirements; and

9.1.~~e~~3. Has passed an examination 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:

9.2.~~a~~1. 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;

9.2.~~b~~2. Has successfully completed a period of supervised fieldwork experience required by the

recognized educational institution where he or she met the academic requirements.

9.2.~~b-12~~.a. A limited permit is not renewable, and is valid for 90 days from the date of issuance.

9.2.~~b-2~~.b. A limited permit expires immediately if the holder receives notification of a failing score on the examination. The limited permit holder must stop practicing occupational therapy immediately.

9.2.~~b-32~~.c. An occupational therapist who has been issued a limited permit shall practice under the direct close supervision of an occupational therapist.

9.2.~~b-42~~.d. An occupational therapy assistant who has been issued a limited permit shall practice under the direct close supervision of an occupational therapist or occupational therapy assistant with at least 1 year of experience.

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.1. 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 or who qualifies for licensure under W. Va. Code §30-1-27;

9.3.a.1a. The holder of a temporary license may practice occupational therapy only in accordance with the provisions of W. Va. Code §30-28-1 *et seq.*

9.3.a.~~21~~.b. A temporary license is nonrenewable, and is valid for 30 days.

9.4. Notwithstanding any other provision of this Board's rules to the contrary, the Board shall issue a license to an applicant who qualifies for licensure under W. Va. Code §30-1-27.

§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.

10.2. Any occupational therapy student who is in the process of completing a period of supervised 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 is exempt from licensure.

§13-1-11. Renewal.

11.1. Licenses may be renewed biennially ~~on~~ by completing a renewal application ~~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.

11.3. The license renewal sent to the licensee shall be accompanied by two wallet-sized cards for occupational therapy identification.

11.4. WVBOT may request that a current photo be submitted with renewal applications.

§13-1-12. Responsibilities and Supervision Requirements of the Occupational Therapist, Occupational Therapy Assistant, or Limited Permit Holder.

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.a1. 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. A Supervisory Statement, signed by the occupational therapy assistant and supervising occupational therapist, must be submitted to the Board to document the supervisory relationship.

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.a1. The specific frequency, methods, and content of supervision may vary by practice setting and are dependent upon the:

12.4.a.1.a. Complexity of client needs,

12.4.a.21.b. Number and diversity of clients,

12.4.a.3.1.c. Skills of the occupational therapist and the occupational therapy assistant,

12.4.a.4.1.d. Type of practice setting,

12.4.a.5.1.e. Requirements of the practice setting, and

12.4.a.6.1.f. Other regulatory requirements.

12.4.b2. It is the responsibility of the occupational therapist supervising an occupational therapy 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.

12.4.e3. It is the responsibility of the occupational therapist supervising an occupational therapy assistant with ~~increased skill development and mastery of basic role functions for the delivery of occupational therapy services~~ at least one year of experience 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.

12.4.d4. 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. The supervisor need not be present or on the premises at all times where the licensed occupational therapy assistant is performing the professional services.

12.5. It is the responsibility of the licensed supervisor to provide the appropriate supervision and to ensure that the limited permit holder, occupational therapy student, or aide does not perform duties for which he or she is not trained.

12.5.a1. A licensed supervising occupational therapist or occupational therapy assistant must maintain direct close supervision over limited permit holders;

12.5.b2. A licensed supervising occupational therapist or occupational therapy assistant must maintain direct continuous supervision over aides.

12.5.e3. A licensed supervising occupational therapist must maintain direct continuous supervision over occupational therapy students. As the occupational therapy student demonstrates competency in performance, supervision can progress to direct close supervision at the discretion of the supervising occupational therapist;

12.5.d4. A licensed supervising occupational therapist or occupational therapy assistant must maintain direct continuous supervision over occupational therapy assistant students. As the occupational therapy assistant student demonstrates competency in performance, supervision can progress to direct close supervision at the discretion of the supervising occupational therapist/occupational therapy assistant;

12.5.e5. 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.

12.6. Any occupational therapist licensed under the requirements of this rule 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.

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.

12.8. Any occupational therapist holding a limited permit may use the words "Limited Permit Occupational Therapist" or he or she may use the letters "L.P.O.T.," or "O.T./L.P." in connection with his or her name or place of business.

12.9. Any occupational therapy assistant holding a limited permit may use the words "Limited Permit Occupational Therapy Assistant" or he or she may use the letters "L.P.O.T.A.," or "O.T.A./L.P." in connection with his or her name or place of business.

§13-13. Display of License or Limited Permit.

13.1. Each licensee 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 or access to the digital license card provided by the Board.

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

13.2.~~a~~1. A Board member;

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

13.2.~~e~~2. Any person upon whom the licensee performs occupational therapy; or

13.2.~~d~~3. An employer in whose employ the licensee practices or intends to practice occupational therapy.

13.3. A photocopy or other facsimile of a license or wallet-sized registration card is not 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 or digital license card shall be readily available for review.

§13-1-14. Duplicate License.

14.1. In requesting a name change, the licensee shall provide a copy of the legal document authorizing the change ~~with the required fee~~ before the Board will issue an amended license.

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.

§13-1-15. 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 30 days of the changed name or address.