

HOUSE BILL 785

Unofficial Copy
J2

2000 Regular Session
(01r1383)

ENROLLED BILL

-- Environmental Matters/Economic and Environmental Affairs --

Introduced by **Delegates D. Davis, Mohorovic, Stern, Cane, Sher, and Oaks**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Occupational Therapy - Scope of Practice**

3 FOR the purpose of altering the scope of practice for occupational therapy
4 professionals; altering limitations on certain practices carried out by orthotists
5 or prosthetists; providing for the annual election of ~~the chairperson~~ one or more
6 chairpersons of the Board of Occupational Therapy Practice; requiring the
7 appointment of an Executive Director to the Board; authorizing the Board to
8 employ certain staff and experts; authorizing the Board to adopt certain
9 regulations in consultation with certain boards; altering the programs from
10 which licensees must graduate and the examinations which licensees must pass;
11 requiring licensees to present licenses in a certain manner; establishing certain
12 late fees; requiring former licensees to complete certain requirements prior to
13 reinstatement; altering certain criteria for the forfeiture of certain licenses;
14 authorizing the Board to delegate authority to a committee of Board members to
15 conduct certain hearings; requiring the Board members to whom hearing
16 authority is delegated to give notice and an opportunity to file exceptions to
17 certain persons in relation to decisions; authorizing an action to be maintained

1 in the name of the State or the Board to enjoin certain parties in specific
2 instances and in certain locations; providing for criminal prosecution in certain
3 instances; altering certain terms; altering certain credentialing limitations;
4 defining certain terms; making technical corrections; and generally relating to
5 the scope of practice for occupational therapy professionals.

6 BY repealing and reenacting, with amendments,
7 Article - Health Occupations
8 Section 10-101, 10-102, 10-203 through 10-205, 10-301, 10-302, 10-304(a),
9 10-308, 10-311(f), 10-312, 10-313, 10-316, 10-319, 10-402, and 10-403
10 Annotated Code of Maryland
11 (1994 Replacement Volume and 1999 Supplement)

12 BY adding to
13 Article - Health Occupations
14 Section 10-317.1
15 Annotated Code of Maryland
16 (1994 Replacement Volume and 1999 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Health Occupations**

20 10-101.

21 (a) In this title the following words have the meanings indicated.

22 (B) "ACOTE" MEANS THE ACCREDITATION COUNCIL FOR OCCUPATIONAL
23 THERAPY EDUCATION.

24 (C) "AIDE" MEANS ANY INDIVIDUAL WHO:

25 (1) IS NOT LICENSED BY THE BOARD TO PERFORM OCCUPATIONAL
26 THERAPY OR LIMITED OCCUPATIONAL THERAPY; AND

27 (2) PROVIDES SUPPORTIVE SERVICES TO THE OCCUPATIONAL
28 THERAPIST ~~OR OCCUPATIONAL THERAPY ASSISTANT~~ UNDER DIRECT SUPERVISION.

29 [(b)] (D) "Board" means the State Board of Occupational Therapy Practice.

30 (E) "DIRECT SUPERVISION" MEANS SUPERVISION PROVIDED ON A
31 FACE-TO-FACE BASIS BY A SUPERVISING THERAPIST WHEN DELEGATED
32 CLIENT-RELATED TASKS ARE PERFORMED.

33 [(c)] (F) "License" means, unless the context requires otherwise, a license
34 issued by the Board to practice:

1 (1) Occupational therapy; or

2 (2) Limited occupational therapy.

3 [(d)] (G) "Licensed occupational therapist" means, unless the context requires
4 otherwise, an occupational therapist who is licensed by the Board to practice
5 occupational therapy.

6 [(e)] (H) "Licensed occupational therapy assistant" means, unless the context
7 requires otherwise, an occupational therapy assistant who is licensed by the Board to
8 practice limited occupational therapy.

9 (I) (1) "LIMITED OCCUPATIONAL THERAPY" MEANS PARTICIPATION, WHILE
10 UNDER THE PERIODIC SUPERVISION OF A LICENSED OCCUPATIONAL THERAPIST, IN:

11 (I) AN INITIAL SCREENING AND EVALUATION THAT APPLIES THE
12 PRINCIPLES AND PROCEDURES OF OCCUPATIONAL THERAPY; AND

13 (II) A TREATMENT PROGRAM THAT APPLIES THE PRINCIPLES AND
14 PROCEDURES OF OCCUPATIONAL THERAPY.

15 (2) "LIMITED OCCUPATIONAL THERAPY" DOES NOT INCLUDE:

16 (I) INITIATION AND INTERPRETATION OF EVALUATION DATA; AND

17 (II) INITIATION OF A TREATMENT PROGRAM BEFORE THE CLIENT
18 HAS BEEN EVALUATED AND A ~~LICENCED~~ LICENSED OCCUPATIONAL THERAPIST HAS
19 RENDERED A TREATMENT PLAN.

20 (J) "NBCOT" MEANS THE NATIONAL BOARD FOR CERTIFICATION IN
21 OCCUPATIONAL THERAPY.

22 [(f)] (K) "Occupational therapist" means an individual who practices
23 occupational therapy.

24 (L) "OCCUPATIONAL THERAPY" MEANS THE THERAPEUTIC USE OF
25 PURPOSEFUL AND MEANINGFUL GOAL-DIRECTED ACTIVITIES TO EVALUATE,
26 CONSULT, AND TREAT INDIVIDUALS THAT:

27 (1) HAVE A DISEASE OR DISORDER, IMPAIRMENT, ACTIVITY LIMITATION,
28 OR PARTICIPATION RESTRICTION THAT INTERFERES WITH THEIR ABILITY TO
29 FUNCTION INDEPENDENTLY IN DAILY LIFE ROLES; OR

30 (2) BENEFIT FROM THE PREVENTION OF IMPAIRMENTS AND ACTIVITY
31 LIMITATIONS.

32 [(g)] (M) "Occupational therapy assistant" means an individual who practices
33 limited occupational therapy.

1 (N) "OCCUPATIONAL THERAPY PRACTICE" OR "LIMITED OCCUPATIONAL
2 THERAPY PRACTICE" MEANS TO CARRY OUT A TREATMENT PROGRAM THAT APPLIES
3 THE PRINCIPLES AND PROCEDURES OF OCCUPATIONAL THERAPY.

4 (O) "OCCUPATIONAL THERAPY PRINCIPLES" INCLUDE:

5 (1) THE USE OF THERAPEUTIC ACTIVITIES THAT PROMOTE
6 INDEPENDENCE IN DAILY LIFE ROLES;

7 (2) REMEDIATION OR RESTORATION OF PERFORMANCE ABILITIES THAT
8 ARE LIMITED DUE TO IMPAIRMENT IN BIOLOGICAL, PHYSIOLOGICAL,
9 PSYCHOLOGICAL, OR NEUROLOGICAL PROCESSES;

10 (3) IN ORDER TO ENHANCE PERFORMANCE, THE ADAPTION OF TASK,
11 PROCESS, OR THE ENVIRONMENT, OR THE TEACHING OF COMPENSATORY
12 TECHNIQUES;

13 (4) METHODS AND TECHNIQUES FOR PREVENTING DISABILITY THAT
14 FACILITATE THE DEVELOPMENT OR SAFE APPLICATION OF PERFORMANCE SKILLS;

15 (5) HEALTH PROMOTION STRATEGIES AND PRACTICES THAT ENHANCE
16 PERFORMANCE ABILITIES; AND

17 (6) EDUCATION, INSTRUCTION, AND RESEARCH IN THE PRACTICE OF
18 OCCUPATIONAL THERAPY.

19 (P) (1) "OCCUPATIONAL THERAPY PROCEDURES" INCLUDE:

20 (I) DEVELOPING, IMPROVING, SUSTAINING, OR RESTORING SKILLS
21 IN ACTIVITIES OF DAILY LIVING, WORK, OR PRODUCTIVE ACTIVITIES, INCLUDING:

22 1. INSTRUMENTAL ACTIVITIES OF DAILY ACTIVITY; AND

23 2. PLAY AND LEISURE ACTIVITIES;

24 (II) DEVELOPING, REMEDIATING, OR RESTORING SENSORIMOTOR,
25 PERCEPTUAL, COGNITIVE, OR PSYCHOLOGICAL COMPONENTS OF PERFORMANCE;

26 (III) DESIGNING, FABRICATING, APPLYING, OR TRAINING IN THE
27 USE OF ASSISTIVE TECHNOLOGY, SPLINTING, OR ORTHOTIC DEVICES, INCLUDING
28 TRAINING IN THE USE OF PROSTHETIC DEVICES;

29 (IV) ADAPTING ENVIRONMENTS AND PROCESSES, INCLUDING THE
30 APPLICATION OF ERGONOMIC PRINCIPLES TO ENHANCE PERFORMANCE AND
31 SAFETY IN DAILY LIFE ROLES;

32 (V) APPLYING PHYSICAL AGENT MODALITIES AS ADJUNCTS TO OR
33 IN PREPARATION FOR PURPOSEFUL ACTIVITY WITH APPROPRIATE TRAINING, AS
34 SPECIFIED BY THE BOARD IN REGULATION;

1 (VI) PROMOTING SAFE, FUNCTIONAL MOBILITY IN DAILY LIFE
2 TASKS;

3 (VII) PROVIDING INTERVENTION IN COLLABORATION WITH THE
4 CLIENT, THE CLIENT'S FAMILY, THE CLIENT'S CAREGIVER, OR OTHERS;

5 (VIII) EDUCATING THE CLIENT, THE CLIENT'S FAMILY, THE CLIENT'S
6 CAREGIVER, OR OTHERS IN CARRYING OUT APPROPRIATE NONSKILLED
7 INTERVENTIONS; AND

8 (IX) CONSULTING WITH GROUPS, PROGRAMS, ORGANIZATIONS, AND
9 COMMUNITIES TO PROVIDE POPULATION-BASED SERVICES.

10 (2) "OCCUPATIONAL THERAPY PROCEDURES" DO NOT INCLUDE THE
11 ADJUSTMENT OR MANIPULATION OF ANY OF THE OSSEOUS STRUCTURES OF THE
12 BODY OR SPINE.

13 (Q) "ON-SITE SUPERVISION" MEANS SUPERVISION IN WHICH A SUPERVISOR IS
14 IMMEDIATELY AVAILABLE ON A FACE-TO-FACE BASIS WHEN CLIENT PROCEDURES
15 ARE PERFORMED OR AS OTHERWISE NECESSARY.

16 [(h) "Practice limited occupational therapy" means to carry out a treatment
17 program that applies the principles and procedures of occupational therapy.

18 (i) (1) "Practice occupational therapy" means to evaluate, treat, and consult
19 regarding problems that interfere with the functional and occupational performance
20 of an individual who is impaired by physical, emotional, or developmental disability.

21 (2) "Practice occupational therapy" includes:

22 (i) Selecting, designing, making, and using splints and adaptive
23 equipment;

24 (ii) Using therapeutic activities;

25 (iii) Using developmental, perceptual-motor, and sensory
26 integrative activities;

27 (iv) Using activities of daily living;

28 (v) Prevocational evaluating and training;

29 (vi) Consulting about the adaptation of environments for the
30 handicapped; and

31 (vii) Performing and interpreting manual muscle and range of
32 motion tests.]

33 (R) (1) "PERIODIC SUPERVISION" MEANS SUPERVISION BY A LICENSED
34 OCCUPATIONAL THERAPIST ON A FACE-TO-FACE BASIS, OCCURRING THE EARLIER
35 OF AT LEAST:

1 (I) ONCE EVERY 10 THERAPY VISITS; OR

2 (II) ONCE EVERY 30 CALENDAR DAYS.

3 (2) "PERIODIC SUPERVISION" INCLUDES:

4 (I) CHART REVIEW; AND

5 (II) MEETINGS TO DISCUSS CLIENT TREATMENT PLANS, CLIENT
6 RESPONSE, OR OBSERVATION OF TREATMENT.

7 (S) "SUPERVISION" MEANS AID, DIRECTION, AND INSTRUCTION PROVIDED BY
8 AN OCCUPATIONAL THERAPIST TO ADEQUATELY ENSURE THE SAFETY AND
9 WELFARE OF CLIENTS DURING THE COURSE OF OCCUPATIONAL THERAPY.

10 [(j)] (T) "Temporary license" means a license issued by the Board under and
11 as limited by § 10-313 of this title to practice:

12 (1) Occupational therapy; or

13 (2) Limited occupational therapy.

14 10-102.

15 [(a)] This title does not limit the right of an individual to practice a health
16 occupation that the individual is authorized to practice under this article.

17 [(b)] This title does not limit the practice, services, or activities of an orthotist or
18 a prosthetist in fitting, making, or applying splints or other orthotic devices, if that
19 individual is working within the standards and ethics of the individual's occupation.]
20 10-203.

21 (a) From among its members, the Board shall ANNUALLY elect [officers] ~~A~~
22 ~~CHAIRPERSON~~ ONE OR MORE CHAIRPERSONS.

23 (b) The Board shall determine:

24 (1) The manner of election of [officers] ~~CHAIRPERSON~~ THE
25 CHAIRPERSONS;

26 (2) The term of office of [each officer] ~~THE CHAIRPERSON~~
27 CHAIRPERSONS; and

28 (3) The duties of [each officer] ~~THE CHAIRPERSON~~ CHAIRPERSONS.

29 10-204.

30 (a) A majority of the full authorized membership of the Board is a quorum.

1 (b) The Board shall meet at least once every 2 months, at the times and places
2 that it determines.

3 (c) Each member of the Board is entitled to:

4 (1) Compensation in accordance with the budget of the Board; and

5 (2) Reimbursement for expenses at a rate determined by the Board.

6 [(d) The Board may employ a staff in accordance with the budget of the Board.]

7 (D) (1) THE BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE
8 BOARD THAT SERVES AT THE PLEASURE OF THE BOARD AS ITS EXECUTIVE OFFICER.

9 (2) IN ACCORDANCE WITH THE BUDGET OF THE BOARD, THE BOARD
10 MAY EMPLOY:

11 (I) A STAFF; AND

12 (II) ANY EXPERTS AND CONSULTANTS NECESSARY TO OBTAIN
13 INFORMATION AND ADVICE THAT RELATE TO OCCUPATIONAL THERAPY.

14 10-205.

15 (a) In addition to the powers set forth elsewhere in this title, the Board may
16 adopt:

17 (1) Rules and regulations to carry out the provisions of this title; [and]

18 (2) A code of ethics for licensees; AND

19 (3) IN CONSULTATION WITH THE STATE BOARD OF PHYSICAL THERAPY
20 EXAMINERS AND THE BOARD OF CHIROPRACTIC EXAMINERS, REGULATIONS THAT
21 RECOGNIZE OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY
22 ASSISTANTS WHO HAVE ACQUIRED ADVANCED PRACTICE SKILLS.

23 (b) In addition to the duties set forth elsewhere in this title, the Board shall
24 keep:

25 (1) Records and minutes necessary for the orderly conduct of business;
26 and

27 (2) A list of each currently licensed occupational therapist and
28 occupational therapy assistant.

29 10-301.

30 (a) Except as otherwise provided in this title, an individual shall be licensed
31 by the Board before the individual may practice occupational therapy or limited
32 occupational therapy in this State.

1 (b) This section does not apply to:

2 (1) An individual employed by the federal government as an
3 occupational therapist or an occupational therapy assistant, while practicing within
4 the scope of that employment;

5 (2) A student or trainee who is designated as a student or trainee, while:

6 (i) Fulfilling a field work requirement under § 10-302 of this
7 subtitle; or

8 (ii) Pursuing a supervised course of study in an accredited or
9 approved educational program leading to a degree or certificate in:

10 1. Occupational therapy; or

11 2. [Limited occupational] OCCUPATIONAL therapy
12 ASSISTANT [or its equivalent];

13 (3) [An occupational therapy aide who aids] SUBJECT TO THE
14 REGULATIONS ADOPTED BY THE BOARD, AN AIDE WHO SUPPORTS [in] the practice of
15 occupational therapy, if the aide:

16 (i) Works only under the direct supervision of a licensed
17 occupational therapist AND SUBJECT TO THE OCCUPATIONAL THERAPIST'S
18 RESPONSIBILITY FOR SUPERVISION, AS PROVIDED BY THIS SUBTITLE; and

19 (ii) Performs only support activities that do not require [advanced]
20 training in the basic anatomical, biological, psychological, and social sciences [that
21 are] used in the practice of occupational therapy;

22 (4) An occupational therapist who is authorized to practice occupational
23 therapy in any other [state] JURISDICTION, if the occupational therapist[:

24 (i) Practices] PRACTICES occupational therapy in this State for
25 [not more than 90 days in any calendar year; and

26 (ii) Practices occupational therapy in this State only in association
27 with a licensed occupational therapist and notifies the Board before practicing
28 occupational therapy in this State] THE PURPOSE OF EDUCATING, CONSULTING, AND
29 TRAINING, FOR THE DURATION OF THE PURPOSE, AS PREAPPROVED BY THE BOARD;
30 or

31 (5) An occupational therapy assistant who is authorized to practice
32 limited occupational therapy in any other [state] JURISDICTION, if the occupational
33 therapy assistant[:

34 (i) Practices] PRACTICES limited occupational therapy in this
35 State for [not more than 90 days in any calendar year;

1 (ii) Notifies the Board before practicing limited occupational
2 therapy in this State; and

3 (iii) Practices limited occupational therapy in this State only under
4 the supervision of a licensed occupational therapist] THE PURPOSE OF EDUCATING,
5 CONSULTING, AND TRAINING, FOR THE DURATION OF THE PURPOSE, AS
6 PREAPPROVED BY THE BOARD.

7 10-302.

8 (a) To qualify for a license, an applicant shall be an individual who meets the
9 requirements of this section.

10 (b) The applicant shall be of good moral character.

11 (c) The applicant shall be at least 18 years old.

12 (d) An applicant for an occupational therapist license shall have [completed]
13 successfully:

14 (1) [The academic requirements of] GRADUATED FROM an educational
15 program in occupational therapy that[:

16 (i) Is] IS recognized by the Board and accredited by [the American
17 Occupational Therapy Association] ACOTE or ANY other nationally recognized
18 programmatic accrediting agency; and

19 [(ii) Is concentrated in:

20 1. Biological or physical science;

21 2. Psychology;

22 3. Sociology; and

23 4. Selected treatment modalities; and]

24 (2) [The] COMPLETED THE equivalent of at least 6 months of
25 supervised, full-time field work experience at a recognized educational institution or
26 in a training program approved by the educational institution where the applicant
27 met the academic requirements.

28 (e) An applicant for an occupational therapy assistant license shall have
29 [completed] successfully:

30 (1) [The academic requirements of] GRADUATED FROM an educational
31 program for occupational therapy assistants that is recognized by the Board and
32 accredited by [the American Occupational Therapy Association] ACOTE or ANY other
33 nationally recognized programmatic accrediting agency; and

1 (2) [The]COMPLETED THE equivalent of at least [2] 4 months of
2 supervised, full-time field work experience at a recognized educational institution or
3 in a training program approved by the educational institution where the applicant
4 met the academic requirements.

5 (f) [Except as otherwise provided in this title, the] THE applicant shall pass
6 [an] THE APPROPRIATE examination given by [the Board under this subtitle]
7 NBCOT OR ANY OTHER NATIONAL CREDENTIALING ORGANIZATION.

8 10-304.

9 (a) To apply for a license, an applicant shall:

10 (1) Submit an application to the Board [on] IN the form [that]
11 REQUIRED BY the Board [requires]; and

12 (2) Pay to the Board the application fee set by the Board.

13 10-308.

14 (A) The Board shall issue the appropriate license to an applicant who meets
15 the requirements of this title for that license.

16 (B) (1) LICENSEES SHALL PRESENT AN ORIGINAL CURRENT LICENSE TO
17 THE EMPLOYER AS PART OF THE EMPLOYMENT PROCESS.

18 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, EACH
19 LICENSEE SHALL DISPLAY THE LICENSE CONSPICUOUSLY IN THE OFFICE OR PLACE
20 OF EMPLOYMENT OF THE LICENSEE.

21 (3) IF A LICENSEE IS UNABLE TO DISPLAY THE LICENSE, THE LICENSEE
22 SHALL PRESENT THE ORIGINAL LICENSE TO THE CLIENT AT THE REQUEST OF THE
23 CLIENT OR THE CLIENT'S DESIGNATED DECISION MAKER.

24 10-311.

25 (f) The Board shall [reinstate] RENEW the license of an occupational
26 therapist or an occupational therapy assistant [who has not placed the license on an
27 inactive status and] who has failed to renew the license for any reason if the
28 occupational therapist or occupational therapy assistant:

29 (1) Applies for [reinstatement] RENEWAL within 30 days after the [date
30 the license expires] DEADLINE FOR RENEWAL;

31 (2) Meets the renewal requirements of this section; [and]

32 (3) Pays to the Board the [reinstatement] RENEWAL fee set by the
33 Board; AND

34 (4) PAYS TO THE BOARD THE LATE FEE SET BY THE BOARD.

1 10-312.

2 [(a) (1) Except for the holder of a temporary license issued under § 10-313 of
3 this subtitle, the Board shall place a licensee on inactive status, if the licensee
4 submits to the Board:

5 (i) An application for inactive status on the form required by the
6 Board; and

7 (ii) The inactive status fee set by the Board.

8 (2) The Board shall issue a license to an individual who is on inactive
9 status if the individual complies with the renewal requirements that exist at the time
10 the individual changes from inactive to active status.

11 (b) The Board may reinstate the license of an occupational therapist or an
12 occupational therapy assistant [who has not been put on inactive status,] who has
13 failed to renew the license for any reason, and who applies for reinstatement more
14 than 30 days after the license [has expired] RENEWAL DEADLINE, if the occupational
15 therapist or occupational therapy assistant:

16 (1) Meets the renewal requirements of § 10-311 of this subtitle;

17 (2) Pays to the Board the reinstatement fee set by the Board; [and]

18 (3) PROVIDES DOCUMENTATION OF SUCCESSFULLY COMPLETING THE
19 CONTINUING EDUCATION REQUIREMENTS ESTABLISHED BY THE BOARD; AND

20 (4) Completes any other requirements established by regulation.

21 10-313.

22 (a) The Board may issue a temporary license to an applicant who, except for
23 passing an examination otherwise required under this subtitle, has met the
24 appropriate education and experience requirements of this subtitle for an
25 occupational therapist license or an occupational therapy assistant license under §
26 10-302 of this subtitle.

27 (b) (1) A temporary license issued to an occupational therapist authorizes
28 the holder to practice occupational therapy only [in association with] UNDER THE
29 ON-SITE SUPERVISION OF an occupational therapist who is authorized to practice in
30 this State.

31 (2) A temporary license issued to an occupational therapy assistant
32 authorizes the holder to practice limited occupational therapy only under the
33 ON-SITE supervision of an occupational therapist OR AN OCCUPATIONAL THERAPY
34 ASSISTANT who is authorized to practice in this State.

35 (c) A temporary license [expires on the date when the results of the first
36 examination that the holder was eligible to take are made public.] IS VALID UNTIL:

1 (1) NOTIFICATION OF EXPIRATION BY THE BOARD FOR THE LICENSEE'S
2 FAILURE TO SUCCESSFULLY COMPLETE THE EXAM;

3 (2) NOTIFICATION OF SUSPENSION FOR THE LICENSEE'S FAILURE TO
4 SUBMIT EXAM RESULTS TO THE BOARD; OR

5 (3) NOTIFICATION OF PERMANENT LICENSURE.

6 (d) The Board may not issue more than two temporary licenses to an
7 individual.

8 [(e) The Board may not renew a temporary license.]

9 10-316.

10 (a) Except as otherwise provided in the Administrative Procedure Act, before
11 the Board takes any action under § 10-315 of this subtitle, it shall give the individual
12 against whom the action is contemplated an opportunity for a hearing before the
13 Board.

14 (B) (1) THE BOARD CHAIRMAN MAY DELEGATE THE AUTHORITY TO
15 CONDUCT A HEARING TO A COMMITTEE CONSISTING OF TWO OR MORE BOARD
16 MEMBERS.

17 (2) THE COMMITTEE SHALL:

18 (I) HOLD AN EVIDENTIARY HEARING; AND

19 (II) PREPARE A RECOMMENDED DECISION FOR CONSIDERATION BY
20 A QUORUM OF THE BOARD.

21 (3) THE COMMITTEE SHALL GIVE NOTICE TO THE INDIVIDUAL OF THE
22 OPPORTUNITY TO FILE EXCEPTIONS AND PRESENT ARGUMENT TO THE BOARD
23 REGARDING THE RECOMMENDED DECISION.

24 [(b)] (C) The Board shall give notice and hold the hearing in accordance with
25 the Administrative Procedure Act.

26 [(c)] (D) The hearing notice to be given to the individual shall be sent by
27 certified mail, return receipt requested, bearing a postmark from the United States
28 Postal Service, to the last known address of the individual at least 30 days before the
29 hearing.

30 [(d)] (E) The individual may be represented at the hearing by counsel.

31 [(e)] (F) Over the signature of an officer or the administrator of the Board, the
32 Board may issue subpoenas and administer oaths in connection with any
33 investigation under this title and any hearings or proceedings before it.

34 [(f)] (G) If, without lawful excuse, a person disobeys a subpoena from the
35 Board or an order by the Board to take an oath or to testify or answer a question,

1 then, on petition of the Board, a court of competent jurisdiction may punish the
2 person as for contempt of court.

3 [(g)] (H) If after due notice the individual against whom the action is
4 contemplated fails or refuses to appear, nevertheless the Board may hear and
5 determine the matter.

6 10-317.1.

7 (A) AN ACTION MAY BE MAINTAINED IN THE NAME OF THE STATE OR THE
8 BOARD TO ENJOIN:

9 (1) THE UNAUTHORIZED PRACTICE OF OCCUPATIONAL THERAPY OR
10 LIMITED OCCUPATIONAL THERAPY; OR

11 (2) CONDUCT THAT IS GROUNDS FOR DISCIPLINARY ACTION UNDER §
12 10-315 OF THIS TITLE.

13 (B) AN ACTION UNDER THIS SECTION MAY BE BROUGHT BY:

14 (1) THE BOARD;

15 (2) THE ATTORNEY GENERAL, IN THE NAME OF THE STATE; OR

16 (3) A STATE'S ATTORNEY IN THE NAME OF THE STATE.

17 (C) AN ACTION UNDER THIS SECTION MAY BE BROUGHT IN THE COUNTY
18 WHERE:

19 (1) THE DEFENDANT RESIDES; OR

20 (2) THE DEFENDANT ENGAGED IN THE ACT SOUGHT TO BE ENJOINED.

21 (D) PROOF THAT DAMAGE OR POSSIBLE DAMAGE WILL BE INCURRED IF AN
22 INJUNCTION IS NOT GRANTED IS NOT REQUIRED FOR AN ACTION UNDER THIS
23 SECTION.

24 (E) AN ACTION UNDER THIS SECTION DOES NOT PRECLUDE A CRIMINAL
25 PROSECUTION FOR THE UNAUTHORIZED PRACTICE OF OCCUPATIONAL THERAPY
26 UNDER § 10-401 OF THIS TITLE OR DISCIPLINARY ACTION UNDER § 10-315 OF THIS
27 SUBTITLE.

28 10-319.

29 (a) In this section, ["occupational therapist rehabilitation committee"]
30 "IMPAIRED OCCUPATIONAL THERAPIST PROFESSIONALS COMMITTEE" means a
31 committee that:

32 (1) Is defined in subsection (b) of this section; and

33 (2) Performs any of the functions listed in subsection (d) of this section.

1 (b) For purposes of this section, an IMPAIRED occupational therapist
2 PROFESSIONALS [rehabilitation] committee is a committee of the Board or a
3 committee of the Maryland Occupational Therapy Association that:

4 (1) Is recognized by the Board; and

5 (2) Includes but is not limited to occupational therapists.

6 (c) A [rehabilitation] IMPAIRED OCCUPATIONAL THERAPIST PROFESSIONALS
7 committee of the Board or recognized by the Board may function:

8 (1) Solely for the Board; or

9 (2) Jointly with a [rehabilitation] IMPAIRED PROFESSIONALS
10 committee representing another board or boards.

11 (d) For purposes of this section, an [occupational therapist rehabilitation]
12 IMPAIRED OCCUPATIONAL THERAPIST PROFESSIONALS committee evaluates and
13 provides assistance to any occupational therapist[,] OR occupational therapy
14 assistant[, and any other individual regulated by the Board,] in need of treatment
15 and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical,
16 emotional, or mental condition.

17 (e) (1) Except as otherwise provided in this subsection, the proceedings,
18 records, and files of the [occupational therapist rehabilitation] IMPAIRED
19 OCCUPATIONAL THERAPIST PROFESSIONALS committee are not discoverable and are
20 not admissible in evidence in any civil action arising out of matters that are being or
21 have been reviewed and evaluated by the [occupational therapist rehabilitation]
22 IMPAIRED OCCUPATIONAL THERAPIST PROFESSIONALS committee.

23 (2) Paragraph (1) of this subsection does not apply to any record or
24 document that is considered by the IMPAIRED occupational therapist PROFESSIONALS
25 [rehabilitation] committee and that otherwise would be subject to discovery or
26 introduction into evidence in a civil action.

27 (3) For purposes of this subsection, civil action does not include a
28 proceeding before the Board or judicial review of a proceeding before the Board.

29 (f) A person who acts in good faith and within the scope of jurisdiction of an
30 IMPAIRED occupational therapist PROFESSIONALS [rehabilitation] committee is not
31 civilly liable for any action as a member of the IMPAIRED occupational therapist
32 PROFESSIONALS [rehabilitation] committee or for giving information to,
33 participating in, or contributing to the function of the IMPAIRED occupational
34 therapist PROFESSIONALS [rehabilitation] committee.

35 10-402.

36 (a) Unless authorized to practice occupational therapy under this title, a
37 person may not represent to the public by title, by description of services, methods, or

1 procedures, or otherwise, that the person is authorized to practice occupational
2 therapy in this State.

3 (b) Unless authorized to practice occupational therapy under this title, a
4 person may not use the CREDENTIALING abbreviation "O.T."[, "O.T.R.",] or any other
5 words, letters, or symbols with the intent to represent that the person practices
6 occupational therapy.

7 10-403.

8 (a) Unless authorized to practice limited occupational therapy under this title,
9 a person may not represent to the public by title, by description of services, methods,
10 or procedures, or otherwise, that the person is authorized to practice limited
11 occupational therapy in this State.

12 (b) Unless authorized to practice limited occupational therapy under this title,
13 a person may not use the CREDENTIALING abbreviation "O.T.A."[, "C.O.T.A.",] or any
14 other words, letters, or symbols with the intent to represent that the person practices
15 limited occupational therapy.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2000.