
By: **Chairman, Economic and Environmental Affairs Committee**
(Departmental - Health and Mental Hygiene)

Introduced and read first time: January 17, 2000

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Occupational Therapy Practice Act**

3 FOR the purpose of modifying the Maryland Occupational Therapy Practice Act;
4 providing for the scope of practice of occupational therapy; authorizing the State
5 Board of Occupational Therapy Practice to elect a chairperson and to determine
6 the duties of the chairperson; authorizing the Board to hire an executive
7 director; authorizing the executive director to hire staff, experts, and
8 consultants; altering the requirement of licensure to practice occupational
9 therapy under certain circumstances; clarifying language dealing with the
10 qualifications of applicants for occupational therapy; repealing the authority of
11 the Board to give a certain examination; repealing the waiver of certain
12 examination requirements; clarifying the Board's authority to issue a temporary
13 license under certain circumstances; authorizing the Board to delegate certain
14 hearings to a committee of one or more Board members; authorizing the Board
15 to enjoin an individual from practicing occupational therapy; making certain
16 technical and stylistic changes; defining certain terms; altering certain terms;
17 and generally relating to the Maryland Occupational Therapy Practice Act.

18 BY renumbering

19 Article - Health Occupations
20 Section 10-309, 10-310, 10-314, 10-317, and 10-318, respectively
21 to be Section 10-306, 10-307, 10-311, 10-314, and 10-316, respectively
22 Annotated Code of Maryland
23 (1994 Replacement Volume and 1999 Supplement)

24 BY repealing and reenacting, with amendments,

25 Article - Health Occupations
26 Section 10-101, 10-102, 10-203, 10-204, 10-205, 10-301, 10-302, 10-304,
27 10-308, 10-311, 10-312, 10-313, 10-315, 10-316, 10-319, 10-402, and
28 10-403
29 Annotated Code of Maryland
30 (1994 Replacement Volume and 1999 Supplement)

1 BY adding to
 2 Article - Health Occupations
 3 Section 10-315
 4 Annotated Code of Maryland
 5 (1994 Replacement Volume and 1999 Supplement)

6 BY repealing
 7 Article - Health Occupations
 8 Section 10-305, 10-306, and 10-307
 9 Annotated Code of Maryland
 10 (1994 Replacement Volume and 1999 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 12 MARYLAND, That Section(s) 10-309, 10-310, 10-314, 10-317, and 10-318,
 13 respectively, of Article - Health Occupations of the Annotated Code of Maryland be
 14 renumbered to be Section(s) 10-306, 10-307, 10-311, 10-314, and 10-316,
 15 respectively.

16 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 17 read as follows:

18 **Article - Health Occupations**

19 10-101.

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

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

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

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

26 (2) PROVIDES SUPPORTIVE SERVICES FOR THE OCCUPATIONAL
 27 THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT UNDER DIRECT SUPERVISION.

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

29 (E) "DIRECT SUPERVISION" MEANS THAT THE SUPERVISOR IS PROVIDING
 30 FACE-TO-FACE SUPERVISION WHEN DELEGATED CLIENT-RELATED TASKS ARE
 31 PERFORMED.

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

34 (1) Occupational therapy; or

1 (2) Limited occupational therapy.

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

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

8 (I) "NBCOT" MEANS THE NATIONAL BOARD FOR CERTIFICATION IN
9 OCCUPATIONAL THERAPY.

10 [(f)] (J) "Occupational therapist" means an individual who practices
11 occupational therapy.

12 (K) "OCCUPATIONAL THERAPY" MEANS THE THERAPEUTIC USE OF
13 PURPOSEFUL AND MEANINGFUL OCCUPATIONS (GOAL-DIRECTED ACTIVITIES) TO
14 EVALUATE, CONSULT WITH, AND TREAT INDIVIDUALS WHO:

15 (1) HAVE A DISEASE OR DISORDER, IMPAIRMENT, ACTIVITY LIMITATION,
16 OR PARTICIPATION RESTRICTION WHICH INTERFERES WITH THEIR ABILITY TO
17 FUNCTION INDEPENDENTLY IN DAILY LIFE ROLES; AND

18 (2) WOULD BENEFIT FROM THE PREVENTION OF IMPAIRMENTS AND
19 ACTIVITY LIMITATIONS.

20 [(g)] (L) "Occupational therapy assistant" means an individual who practices
21 limited occupational therapy.

22 (M) "OCCUPATIONAL THERAPY PRACTICE" OR "LIMITED OCCUPATIONAL
23 THERAPY PRACTICE" MEANS TO CARRY OUT A TREATMENT PROGRAM THAT APPLIES
24 THE PRINCIPLES AND PROCEDURES OF OCCUPATIONAL THERAPY.

25 (1) OCCUPATIONAL THERAPY PRINCIPLES INCLUDE:

26 (I) USE OF THERAPEUTIC ACTIVITIES WHICH PROMOTE
27 INDEPENDENCE IN DAILY LIFE ROLES;

28 (II) REMEDIATION OR RESTORATION OF PERFORMANCE ABILITIES
29 THAT ARE LIMITED DUE TO IMPAIRMENT IN BIOLOGICAL, PHYSIOLOGICAL,
30 PSYCHOLOGICAL, OR NEUROLOGICAL PROCESSES;

31 (III) ADAPTATION OF TASKS, PROCESSES, OR THE ENVIRONMENT OR
32 THE TEACHING OF COMPENSATORY TECHNIQUES, IN ORDER TO ENHANCE
33 PERFORMANCE;

34 (IV) DISABILITY PREVENTION METHODS AND TECHNIQUES WHICH
35 FACILITATE THE DEVELOPMENT OR SAFE APPLICATION OF PERFORMANCE SKILLS;

1 (V) HEALTH PROMOTION STRATEGIES AND PRACTICES WHICH
2 ENHANCE PERFORMANCE ABILITIES; AND

3 (VI) EDUCATION, INSTRUCTION, AND RESEARCH IN THE PRACTICE
4 OF OCCUPATIONAL THERAPY.

5 (2) OCCUPATIONAL THERAPY PROCEDURES INCLUDE:

6 (I) DEVELOPING, IMPROVING, SUSTAINING, OR RESTORING SKILLS
7 IN ACTIVITIES OF DAILY LIVING, WORK, OR PRODUCTIVE ACTIVITIES, INCLUDING
8 INSTRUMENTAL ACTIVITIES OF DAILY LIVING, AND PLAY AND LEISURE ACTIVITIES;

9 (II) DEVELOPING, REMEDIATING, OR RESTORING SENSORIMOTOR,
10 PERCEPTUAL, COGNITIVE, OR PSYCHOSOCIAL COMPONENTS OF PERFORMANCE;

11 (III) DESIGNING, FABRICATING, APPLYING, OR TRAINING IN THE
12 USE OF ASSISTIVE TECHNOLOGY, SPLINTING OR ORTHOTIC DEVICES, AND TRAINING
13 IN THE USE OF PROSTHETIC DEVICES;

14 (IV) ADAPTING ENVIRONMENTS AND PROCESSES, INCLUDING THE
15 APPLICATION OF ERGONOMIC PRINCIPLES, TO ENHANCE PERFORMANCE AND
16 SAFETY IN DAILY LIFE ROLES;

17 (V) APPLYING PHYSICAL AGENT MODALITIES AS ADJUNCTS TO OR
18 IN PREPARATION FOR PURPOSEFUL ACTIVITY WITH APPROPRIATE TRAINING AS
19 SPECIFIED BY THE BOARD IN REGULATION;

20 (VI) PROMOTING SAFE FUNCTIONAL MOBILITY IN DAILY LIFE
21 TASKS;

22 (VII) PROVIDING INTERVENTION IN COLLABORATION WITH THE
23 CLIENT, FAMILY, CAREGIVER, OR OTHERS;

24 (VIII) EDUCATING THE CLIENT, FAMILY, CAREGIVER, OR OTHERS IN
25 CARRYING OUT APPROPRIATE NONSKILLED INTERVENTIONS; AND

26 (IX) CONSULTING WITH GROUPS, PROGRAMS, ORGANIZATIONS, OR
27 COMMUNITIES TO PROVIDE POPULATION-BASED SERVICES.

28 (N) "ON-SITE SUPERVISION" MEANS THE SUPERVISOR IS IMMEDIATELY
29 AVAILABLE TO PROVIDE FACE-TO-FACE SUPERVISION, IF NEEDED, WHEN CLIENT
30 PROCEDURES ARE PERFORMED.

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

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

36 (2) "Practice occupational therapy" includes:

- 1 (i) Selecting, designing, making, and using splints and adaptive
 2 equipment;
- 3 (ii) Using therapeutic activities;
- 4 (iii) Using developmental, perceptual-motor, and sensory
 5 integrative activities;
- 6 (iv) Using activities of daily living;
- 7 (v) Prevocational evaluating and training;
- 8 (vi) Consulting about the adaptation of environments for the
 9 handicapped; and
- 10 (vii) Performing and interpreting manual muscle and range of
 11 motion tests.]

12 (O) "PERIODIC SUPERVISION" MEANS THE SUPERVISING LICENSED
 13 OCCUPATIONAL THERAPIST PROVIDES FACE-TO-FACE SUPERVISION, OCCURRING
 14 NOT LESS THAN EVERY 10 THERAPY VISITS OR EVERY 30 CALENDAR DAYS,
 15 WHICHEVER COMES FIRST, INCLUDING:

16 (1) CHART REVIEW; AND

17 (2) MEETINGS TO DISCUSS THE CLIENT'S TREATMENT PLAN AND
 18 RESPONSE TO TREATMENT OR OBSERVATION OF TREATMENT.

19 (P) (1) "PRACTICE LIMITED OCCUPATIONAL THERAPY" MEANS, UNDER THE
 20 PERIODIC SUPERVISION OF A LICENSED OCCUPATIONAL THERAPIST, TO
 21 PARTICIPATE IN THE SCREENING AND EVALUATION PROCESS AND TO CARRY OUT A
 22 TREATMENT PROGRAM THAT APPLIES THE PRINCIPLES AND PROCEDURES OF THE
 23 PRACTICE OF OCCUPATIONAL THERAPY.

24 (2) "PRACTICE LIMITED OCCUPATIONAL THERAPY" DOES NOT INCLUDE:

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

26 (II) INITIATION OF A TREATMENT PROGRAM UNTIL THE CLIENT
 27 HAS BEEN EVALUATED AND TREATMENT PLANNED BY THE LICENSED
 28 OCCUPATIONAL THERAPIST.

29 (Q) "SUPERVISION" MEANS THAT AN OCCUPATIONAL THERAPIST IS
 30 DESIGNATED AS SUPERVISOR TO GIVE AID, DIRECTION, AND INSTRUCTION THAT IS
 31 ADEQUATE TO ENSURE THE SAFETY AND WELFARE OF CLIENTS DURING THE
 32 PROVISION OF OCCUPATIONAL THERAPY.

33 [(j)] (R) "Temporary license" means a license issued by the Board under and
 34 as limited by § [10-313] 10-310 of this title to practice:

35 (1) Occupational therapy; or

1 (2) Limited occupational therapy.

2 10-102.

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

5 [(b)] This title does not limit the practice, services, or activities of an orthotist or
6 a prosthetist in fitting, making, or applying splints or other orthotic devices, if that
7 individual is working within the standards and ethics of the individual's occupation.]
8 10-203.

9 (a) From among its members, the Board shall elect [officers] A CHAIRPERSON
10 OR CHAIRPERSONS ON AN ANNUAL BASIS.

11 (b) The Board shall determine:

12 [(1) The manner of election of officers;

13 (2) The term of office of each officer; and

14 (3) The duties of each officer]

15 (1) THE MANNER OF ELECTION OF THE CHAIRPERSON OR
16 CHAIRPERSONS; AND

17 (2) THE DUTIES OF THE CHAIRPERSON OR CHAIRPERSONS.

18 10-204.

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

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

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

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

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

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

26 [(e)] (D) (1) IN ACCORDANCE WITH THE BUDGET, THE BOARD SHALL
27 APPOINT AN EXECUTIVE DIRECTOR WHO SHALL BE THE EXECUTIVE OFFICER OF THE
28 BOARD.

29 (2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE
30 BOARD.

1 (3) UNDER THE DIRECTION OF THE BOARD, THE EXECUTIVE DIRECTOR
2 SHALL PERFORM ANY DUTY OR FUNCTION THAT THE BOARD REQUIRES.

3 (4) THE EXECUTIVE DIRECTOR MAY:

4 (I) EMPLOY STAFF; AND

5 (II) EMPLOY EXPERTS AND CONSULTANTS TO OBTAIN
6 INFORMATION AND ADVICE THAT RELATE TO OCCUPATIONAL THERAPY.

7 10-205.

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

10 (1) Rules and regulations to carry out the provisions of this title,
11 INCLUDING RULES AND REGULATIONS TO RECOGNIZE OCCUPATIONAL THERAPISTS
12 AND OCCUPATIONAL THERAPY ASSISTANTS WHO HAVE ACQUIRED ADVANCED
13 PRACTICE SKILLS; and

14 (2) A code of ethics for licensees.

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

17 (1) Records and minutes necessary for the orderly conduct of business;
18 and

19 (2) A list of each currently licensed occupational therapist and
20 occupational therapy assistant.

21 10-301.

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

25 (b) This section does not apply to:

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

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

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

32 (ii) Pursuing a supervised course of study in an accredited or
33 approved educational program leading to a degree or certificate [in] AS AN:

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

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

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

5 [(1) The academic requirements of an educational program in
6 occupational therapy that:

7 (i) Is recognized by the Board and accredited by the American
8 Occupational Therapy Association or other nationally recognized programmatic
9 accrediting agency; and

10 (ii) Is concentrated in:

11 1. Biological or physical science;

12 2. Psychology;

13 3. Sociology; and

14 4. Selected treatment modalities; and]

15 (1) GRADUATED FROM AN EDUCATIONAL PROGRAM IN OCCUPATIONAL
16 THERAPY THAT IS RECOGNIZED BY THE BOARD AND ACCREDITED BY ACOTE OR
17 OTHER NATIONALLY RECOGNIZED PROGRAMMATIC ACCREDITING AGENCY; AND

18 (2) The equivalent of at least 6 months of supervised, full-time field
19 work experience at a recognized educational institution or in a training program
20 approved by the educational institution where the applicant met the academic
21 requirements.

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

24 (1) [The academic requirements of an educational program for
25 occupational therapy assistants] GRADUATED FROM AN EDUCATIONAL PROGRAM
26 FOR OCCUPATIONAL THERAPY ASSISTANTS that is recognized by the Board and
27 accredited by [the American Occupational Therapy Association] ACOTE or other
28 nationally recognized programmatic accrediting agency; and

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

33 (f) [Except as otherwise provided in this title, the] THE applicant shall pass
34 [an] THE APPROPRIATE examination given by [the Board under this subtitle]
35 NBCOT OR OTHER NATIONALLY RECOGNIZED CREDENTIALING ORGANIZATION.

1 10-304.

2 [(a)] To apply for a license, an applicant shall:

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

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

6 [(b)] If an applicant is required under this title to take an examination, the
7 applicant shall submit the application and fee at least 30 days before the date of the
8 examination that the applicant is required to take.]

9 [10-305.

10 (a) An applicant who otherwise qualifies for a license is entitled to be
11 examined as provided in this section.

12 (b) The Board shall give examinations at least twice a year, at the times and
13 places that the Board determines, to applicants for:

14 (1) An occupational therapist license; and

15 (2) An occupational therapy assistant license.

16 (c) The Board shall notify each qualified applicant of the time and place of
17 examination.

18 (d) (1) The Board shall determine the subjects, scope, form, and standards
19 for acceptable performance for examinations given under this subtitle.

20 (2) The subjects examined shall include:

21 (i) The basic and clinical sciences that relate to occupational
22 therapy;

23 (ii) The theory and practice of occupational therapy;

24 (iii) The professional skills used in the practice of occupational
25 therapy or limited occupational therapy; and

26 (iv) Judgment in using occupational therapy techniques and
27 methods.

28 (e) In accordance with the rules and regulations of the Board, an applicant
29 may obtain the applicant's score and review the applicant's examination papers.]

1 [10-306.

2 (a) Subject to the provisions of this section, the Board may waive any
3 examination requirement of this subtitle for an applicant who is licensed in any other
4 state to practice:

5 (1) Occupational therapy; or

6 (2) Limited occupational therapy or its equivalent.

7 (b) The Board may grant a waiver under this section only if the applicant:

8 (1) Pays the application fee set by the Board under § 10-304 of this
9 subtitle; and

10 (2) Provides adequate evidence that the applicant:

11 (i) Meets the qualifications otherwise required by this title; and

12 (ii) Became licensed in the other state after meeting requirements
13 in that or any other state that are at least equivalent to the requirements of this
14 State.]

15 [10-307.

16 (a) Subject to the provisions of this subsection, the Board shall waive the
17 appropriate examination requirement of this title for an applicant who:

18 (1) Pays the application fee set by the Board under § 10-304 of this
19 subtitle; and

20 (2) (i) If applying for an occupational therapist license, was certified
21 by the American Occupational Therapy Certification Board as an occupational
22 therapist registered (O.T.R.) at anytime before July 1, 1979; or

23 (ii) If applying for an occupational therapy assistant license, was
24 certified by the American Occupational Therapy Certification Board as a certified
25 occupational therapy assistant (C.O.T.A.) at any time before July 1, 1979.

26 (b) The Board may grant a waiver of the appropriate examination
27 requirement of this subtitle to an applicant for an occupational therapist license who,
28 on or after July 1, 1979, is certified by the American Occupational Therapy
29 Certification Board as an occupational therapist registered (O.T.R.), or to an
30 applicant for an occupational therapy assistant license who, on or after July 1, 1979,
31 is certified by the American Occupational Therapy Certification Board as a certified
32 occupational therapy assistant (C.O.T.A.), only if the applicant:

33 (1) Pays the application fee set by the Board under § 10-304 of this
34 subtitle; and

1 (2) Provides adequate evidence that the applicant became certified after
2 meeting requirements that are at least equivalent to the licensing requirements of
3 this State.]

4 [10-308.] 10-305.

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

7 (B) (1) (I) A LICENSEE SHALL PRESENT AN ORIGINAL CURRENT LICENSE
8 TO THE EMPLOYER AS PART OF THE EMPLOYMENT PROCESS.

9 (II) A LICENSEE MAY NOT PRESENT A PHOTOCOPY OF THE
10 LICENSE.

11 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, EACH
12 LICENSEE SHALL DISPLAY THE LICENSE CONSPICUOUSLY SO THAT IT MAY BE SEEN
13 BY CLIENTS.

14 (3) IF UNABLE TO DISPLAY THE LICENSE, THE LICENSEE SHALL HAVE
15 AVAILABLE THE ORIGINAL CURRENT LICENSE TO PRESENT UPON REQUEST TO THE
16 CLIENT OR DESIGNATED DECISION MAKER.

17 [10-311.]10-308.

18 (a) A license expires on a date set by the Board, unless the license is renewed
19 for an additional term as provided in this section.

20 (b) At least 1 month before the license expires, the Board shall send to the
21 licensee, by first-class mail to the last known address of the licensee, a renewal notice
22 that states:

23 (1) The date on which the current license expires;

24 (2) The date by which the renewal application must be received by the
25 Board for the renewal to be issued and mailed before the license expires; and

26 (3) The amount of the renewal fee.

27 (c) Except as otherwise provided in this title, before the license expires, the
28 licensee periodically may renew it for an additional term, if the licensee:

29 (1) Otherwise is entitled to be licensed;

30 (2) Pays to the Board a renewal fee set by the Board; and

31 (3) Submits to the Board:

32 (i) A renewal application on the form that the Board requires; and

1 (ii) Satisfactory evidence of compliance with any continuing
2 competency requirements and other qualifications and requirements set under this
3 section for license renewal.

4 (d) In addition to any other qualifications and requirements established by
5 the Board, the Board may establish continuing competency requirements as a
6 condition to the renewal of licenses under this section.

7 (e) The Board shall renew the license of each licensee who meets the
8 requirements of this section.

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

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

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

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

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

19 [10-312.] 10-309.

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

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

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

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

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

34 (1) Meets the renewal requirements of § [10-311] 10-308 of this subtitle;

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

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

3 [(3)] (4) Completes any other requirements established by regulation.

4 [10-313.] 10-310.

5 (a) The Board may issue a temporary license to an applicant who, except for
6 passing an examination otherwise required under this subtitle, has met the
7 appropriate education and experience requirements of this subtitle for an
8 occupational therapist license or an occupational therapy assistant license under §
9 10-302 of this subtitle.

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

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

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

21 (1) EXPIRATION BY THE BOARD FOR FAILURE TO SUCCESSFULLY
22 COMPLETE THE EXAM; OR

23 (2) SUSPENSION FOR FAILURE TO SUBMIT EXAM RESULTS TO THE
24 BOARD; OR

25 (3) PERMANENT LICENSURE.

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

28 (e) The Board may not renew a temporary license.

29 [10-315.] 10-312.

30 Subject to the hearing provisions of § [10-316] 10-313 of this subtitle, the
31 Board may deny a license or temporary license to any applicant, reprimand any
32 licensee or holder of a temporary license, place any licensee or holder of a temporary
33 license on probation, or suspend or revoke a license or temporary license if the
34 applicant, licensee, or holder:

35 (1) Fraudulently or deceptively obtains or attempts to obtain a license or
36 temporary license for the applicant, licensee, or holder or for another;

- 1 (2) Fraudulently or deceptively uses a license or temporary license;
- 2 (3) Commits any act of gross negligence, incompetence, or misconduct in
3 the practice of occupational therapy or limited occupational therapy;
- 4 (4) Knowingly violates any provision of this title;
- 5 (5) Violates any rule or regulation of the Board, including any code of
6 ethics adopted by the Board;
- 7 (6) Is convicted of or pleads guilty or nolo contendere to a felony or to a
8 crime involving moral turpitude, whether or not any appeal or other proceeding is
9 pending to have the conviction or plea set aside;
- 10 (7) Aids or abets an unauthorized individual in the practice of
11 occupational therapy or limited occupational therapy;
- 12 (8) Provides professional services while:
- 13 (i) Under the influence of alcohol; or
- 14 (ii) Using any narcotic or controlled dangerous substances defined
15 in Article 27 of the Code, or other drug that is in excess of therapeutic amounts or
16 without valid medical indication;
- 17 (9) Is disciplined by a licensing or disciplinary authority of any other
18 state or country or convicted or disciplined by a court of any state or country for an act
19 that would be grounds for disciplinary action under this section;
- 20 (10) Willfully makes or files a false report or record in the practice of
21 occupational therapy or limited occupational therapy;
- 22 (11) Willfully fails to file or record any report as required by law, willfully
23 impedes or obstructs the filing or recording of the report, or induces another to fail to
24 file or record the report;
- 25 (12) Submits a false statement to collect a fee; or
- 26 (13) Refuses, withholds from, denies, or discriminates against an
27 individual with regard to the provision of professional services for which the licensee
28 is licensed and qualified to render [because the individual is HIV positive]
29 **INCLUDING REFUSING, WITHHOLDING FROM, DENYING, OR DISCRIMINATING**
30 **AGAINST THE INDIVIDUAL BECAUSE THE INDIVIDUAL IS HIV POSITIVE.**
- 31 [10-316.] 10-313.
- 32 (a) Except as otherwise provided in the Administrative Procedure Act, before
33 the Board takes any action under § [10-315] 10-312 of this subtitle, it shall give the
34 individual against whom the action is contemplated an opportunity for a hearing
35 before the Board.

1 (B) (1) THE BOARD CHAIRPERSON MAY DELEGATE THE AUTHORITY TO
2 CONDUCT A HEARING TO A COMMITTEE CONSISTING OF TWO OR MORE BOARD
3 MEMBERS.

4 (2) THE COMMITTEE SHALL:

5 (I) HOLD AN EVIDENTIARY HEARING; AND

6 (II) PREPARE A RECOMMENDED DECISION FOR CONSIDERATION BY
7 A QUORUM OF THE BOARD, WHICH QUORUM MAY INCLUDE MEMBERS OF THE
8 COMMITTEE.

9 (3) THE COMMITTEE SHALL GIVE NOTICE OF THE OPPORTUNITY TO
10 FILE EXCEPTIONS AND PRESENT ARGUMENT TO THE BOARD REGARDING THE
11 RECOMMENDED DECISION.

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

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

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

19 [(e)] (F) Over the signature of an officer or the [administrator] EXECUTIVE
20 DIRECTOR of the Board, the Board may issue subpoenas and administer oaths in
21 connection with any investigation under this title and any hearings or proceedings
22 before it.

23 [(f)] (G) If, without lawful excuse, a person disobeys a subpoena from the
24 Board or an order by the Board to take an oath or to testify or answer a question,
25 then, on petition of the Board, a court of competent jurisdiction [may punish the
26 person as for contempt of court]:

27 (1) SHALL COMPEL COMPLIANCE WITH THE SUBPOENA; AND

28 (2) MAY PUNISH THE PERSON AS FOR CONTEMPT OF COURT.

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

32 10-315.

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

35 (1) THE UNAUTHORIZED PRACTICE OF OCCUPATIONAL THERAPY OR
36 LIMITED OCCUPATIONAL THERAPY; OR

1 (2) CONDUCT THAT IS GROUNDS FOR DISCIPLINARY ACTION UNDER §
2 10-312 OF THIS SUBTITLE.

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

4 (1) THE BOARD IN ITS OWN NAME;

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

6 (3) THE STATE'S ATTORNEY, IN THE NAME OF THE STATE.

7 (C) AN ACTION UNDER THIS SECTION MAY BE BROUGHT IN THE COUNTY
8 WHERE THE DEFENDANT RESIDES OR ENGAGED IN THE ACT SOUGHT TO BE
9 ENJOINED.

10 (D) PROOF OF ACTUAL DAMAGE OR THAT ANY PERSON WILL SUSTAIN ANY
11 DAMAGE IF AN INJUNCTION IS NOT GRANTED IS NOT REQUIRED FOR AN ACTION
12 UNDER THIS SECTION.

13 (E) AN ACTION UNDER THIS SECTION IS IN ADDITION TO AND NOT INSTEAD
14 OF CRIMINAL PROSECUTION FOR THE UNAUTHORIZED PRACTICE OF OCCUPATIONAL
15 THERAPY OR LIMITED OCCUPATIONAL THERAPY UNDER § 10-401 OF THIS TITLE OR
16 DISCIPLINARY ACTION UNDER § 10-312 OF THIS SUBTITLE.

17 [10-319.] 10-317.

18 (a) In this section, "IMPAIRED occupational [therapist] THERAPY
19 [rehabilitation] PROFESSIONALS committee" means a committee that:

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

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

22 (b) For purposes of this section, an [occupational therapist rehabilitation
23 committee] IMPAIRED OCCUPATIONAL THERAPY PROFESSIONALS COMMITTEE is a
24 committee of the Board or a committee of the Maryland Occupational Therapy
25 Association that:

26 (1) Is recognized by the Board; and

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

28 (c) [A rehabilitation committee] AN IMPAIRED OCCUPATIONAL THERAPY
29 PROFESSIONALS COMMITTEE of the Board or recognized by the Board may function:

30 (1) Solely for the Board; or

31 (2) Jointly with [a rehabilitation committee] AN IMPAIRED
32 PROFESSIONALS COMMITTEE representing another board or boards.

1 (d) For purposes of this section, [an occupational therapist rehabilitation
2 committee] AN IMPAIRED OCCUPATIONAL THERAPY PROFESSIONALS COMMITTEE
3 evaluates and provides assistance to any occupational therapist, occupational therapy
4 assistant, and any other individual regulated by the Board, in need of treatment and
5 rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical,
6 emotional, or mental condition.

7 (e) (1) Except as otherwise provided in this subsection, the proceedings,
8 records, and files of the IMPAIRED occupational [therapist] THERAPY
9 [rehabilitation] PROFESSIONALS committee are not discoverable and are not
10 admissible in evidence in any civil action arising out of matters that are being or have
11 been reviewed and evaluated by the IMPAIRED occupational [therapist] THERAPY
12 [rehabilitation] PROFESSIONALS committee.

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

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

19 (f) A person who acts in good faith and within the scope of jurisdiction of an
20 IMPAIRED occupational [therapist] THERAPY [rehabilitation] PROFESSIONALS
21 committee is not civilly liable for any action as a member of the IMPAIRED
22 occupational [therapist] THERAPY [rehabilitation] PROFESSIONALS committee or
23 for giving information to, participating in, or contributing to the function of the
24 IMPAIRED occupational [therapist] THERAPY [rehabilitation] PROFESSIONALS
25 committee.

26 10-402.

27 (a) Unless authorized to practice occupational therapy under this title, a
28 person may not represent to the public by title, by description of services, methods, or
29 procedures, or otherwise, that the person is authorized to practice occupational
30 therapy in this State.

31 (b) Unless authorized to practice occupational therapy under this title, a
32 person may not use the CREDENTIALING abbreviation "O.T.", "O.T.R.", or any other
33 words, letters, or symbols with the intent to represent that the person practices
34 occupational therapy.

35 10-403.

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

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

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2000.