

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 462

BY SENATOR TAKUBO

[Reported February 21, 2025, from the Committee on
Government Organization]

1 A BILL to amend and reenact §30-28-3 of the Code of West Virginia, 1931, as amended; to amend
2 the code by adding a new section, designated §30-28-4a; and to repeal §30-28-15,
3 relating to the Board of Occupational Therapy; defining terms; permitting the Board of
4 Occupational Therapy to require criminal history record checks; requiring rulemaking; and
5 repealing code related to special volunteer licenses and immunity.

Be it enacted by the Legislature of West Virginia:

ARTICLE 28. WEST VIRGINIA OCCUPATIONAL THERAPY PRACTICE ACT.

§30-28-3. Definitions.

1 As used in this article, the following words and terms have the following meanings, unless
2 the context clearly indicates otherwise:

3 ~~(a)~~ "Association" means the West Virginia Occupational Therapy Association.

4 ~~(b)~~ "Board" means the West Virginia Board of Occupational Therapy.

5 ~~(c)~~ "Business entity" means any firm, partnership, association, company, corporation,
6 limited partnership, limited liability company, or other entity doing business in the State of West
7 Virginia.

8 ~~(d)~~ "Client-related tasks" means tasks which are related to treatment and which, when
9 performed by an occupational therapy aide, must be performed under direct supervision, including
10 routine transfers, routine care of a patient's personal needs during the course of treatment,
11 execution of an established routine activity or exercise, and assisting the supervising occupational
12 therapist or occupational therapy assistant as directed during the course of treatment.

13 "Compact privilege" means the authorization, which is equivalent to a license, granted by
14 a remote state to allow a licensee from another member state to practice as an occupational
15 therapist or practice as an occupational therapy assistant in the remote state under its laws and
16 rules. The practice of occupational therapy occurs in the member state where the patient or client
17 is located at the time of the patient or client encounter.

~~(e)~~ "Direct supervision" means the actual physical presence of a licensed supervising occupational therapist or licensed 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 close supervision and direct continuous supervision.

~~(f)~~ "Direct close supervision" means the licensed supervising occupational therapist or licensed occupational therapy assistant is in the building and has daily direct contact at the site of work.

~~(g)~~ "Direct continuous supervision" means the licensed supervising occupational therapist or licensed occupational therapy assistant is physically present and in direct line of sight of the occupational therapy student or aide.

~~(h)~~ "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.

~~(i)~~ "License" means a valid and current license issued by the board under the provisions of this article.

~~(j)~~ "Nonclient-related tasks" means tasks which are not related to treatment and do not require independent clinical reasoning, including clerical and maintenance activities, housekeeping, preparation of the work area or equipment, transporting patients, and ordering supplies, and which, when performed by an occupational therapy aide, must be performed under general supervision.

~~(k)~~ "Occupational therapist" means a person licensed by the board under the provisions of this article to engage in the practice of occupational therapy.

~~(f)~~ "Occupational therapy assistant" means a person licensed by the board under the provisions of this article to assist in the practice of occupational therapy under the general supervision of an occupational therapist.

~~(m)~~ "Occupational therapy aide" means a person who may provide nonclient-related tasks under general supervision, or specifically delegated client-related tasks, subject to the conditions set forth in subsection (f), section four of this article, under direct supervision of an occupational therapist or an occupational therapy assistant, in accordance with the provisions of this article.

~~(n)~~ "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.

§30-28-4a. West Virginia Board of Occupational Therapy criminal history record checks.

(a) The West Virginia Board of Occupational Therapy is authorized to require state and national criminal history record checks for the purpose of issuing compact privileges. The West Virginia Board of Occupational Therapy shall require an applicant, including occupational therapists and occupational therapy assistants, as a condition of eligibility for compact privilege, to submit to a state and national criminal history record check as set forth in this section.

(b) The applicant shall meet all requirements necessary to accomplish the state and national criminal history record check, including:

(1) Submitting fingerprints for the purposes set forth in this subsection; and

(2) Authorizing the board, the West Virginia State Police, and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for a compact privilege.

(c) The results of the state and national criminal history record check may not be released to or by a private entity except:

(1) To the individual who is the subject of the criminal history record check;

(2) With the written authorization of the individual who is the subject of the criminal history record check; or

(3) Pursuant to a court order.

(d) The criminal history record check and related records are not public records for the purposes of §29B-1-1 *et seq.* of this code.

(e) The applicant shall pay the actual costs of the fingerprinting and criminal history record check.

(f) The board may propose rules or amendments to existing rules for legislative approval to comply with the provisions of this section. These rules or amendments to rules shall be proposed pursuant to the provisions of §29A-3-1 *et seq.* of this code within the applicable time limit to be considered by the Legislature during its regular session in the year 2026.

§30-28-15. Special volunteer occupational therapist license; civil immunity for voluntary services rendered to indigents.

[Repealed].