

## WEST VIRGINIA CODE: §30-28-15

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

(a) There is established a special volunteer occupational therapist license for occupational therapists who are retired or are retiring from the active practice of occupational therapy and who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge.

(b) The special volunteer occupational therapist license shall be issued by the board to occupational therapists licensed or otherwise eligible for licensure under this article without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the board's other licensing requirements.

(c) The board shall develop application forms for the special license provided in this section which shall contain the occupational therapist's acknowledgment that:

(1) The occupational therapist's practice under the special volunteer occupational therapist license will be exclusively devoted to providing occupational therapy care to needy and indigent persons in West Virginia;

(2) The occupational therapist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any occupational therapy services rendered under the special volunteer occupational therapist license;

(3) The occupational therapist will supply any supporting documentation that the board may reasonably require; and

(4) The occupational therapist agrees to continue to participate in continuing education as required by the board for a special volunteer occupational therapists license.

(d) Any occupational therapist who renders any occupational therapy service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer occupational therapist license authorized under this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the occupational therapy service at the clinic unless the act or omission was the result of the occupational therapist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, before the rendering of any services by the occupational therapist at the clinic, there must be a written agreement between the occupational therapist and the clinic stating that the occupational

therapist will provide voluntary uncompensated occupational therapy services under the control of the clinic to patients of the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

(e) Notwithstanding the provisions of subsection (d) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of an occupational therapist rendering voluntary occupational therapy services at or for the clinic under a special volunteer occupational therapist license authorized under this section.

(f) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure in this article except the fee requirements.

(g) Nothing in this section may be construed as requiring the board to issue a special volunteer occupational therapist license to any occupational therapist whose occupational therapist license is or has been subject to any disciplinary action or to any occupational therapist who has surrendered an occupational therapist license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her occupational therapist license, or who has elected to place an occupational therapist license in inactive status in lieu of having a complaint initiated or other action taken against his or her occupational therapist license, or who has been denied an occupational therapist license.

(h) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any occupational therapist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by an occupational therapist who holds a special volunteer occupational therapist license.