

**WEST VIRGINIA LEGISLATURE**

**REGULAR SESSION, 1978**



**ENROLLED**

*Committee Substitute for*  
**SENATE BILL NO. 242**

(By Mr. *Brookston*, Mr. President, *Mr. Galperin*  
*and Mr. Jones*)



PASSED *March 10,* ..... 1978

In Effect *July 1, 1978* ..... **Passage**



*NO. 242*

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**COMMITTEE SUBSTITUTE**  
**FOR**

**Senate Bill No. 242**

(By MR. BROTHERTON, MR. PRESIDENT, MR. GALPERIN  
and MR. JONES)

[Passed March 10, 1978; in effect July 1, 1978.]

AN ACT to amend chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-eight, relating to establishing the West Virginia occupational therapy practice act; short title; declaration of purpose; definitions; license required; West Virginia board of occupational therapy; powers and duties of board; persons and practices not affected; qualifications of applicants; examination; waiver of requirements for licensure; issuance of license; renewal of license; suspension and revocation of license; procedures for hearing; judicial review; penalties; and actions to enjoin violations.

*Be it enacted by the Legislature of West Virginia:*

That chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-eight, to read as follows:

**ARTICLE 28. WEST VIRGINIA OCCUPATIONAL THERAPY PRACTICE ACT.**

**§30-28-1. Short title.**

- 1 This article shall be known and may be cited as the
- 2 "West Virginia Occupational Therapy Practice Act."

**§30-28-2. Declaration of purpose.**

- 1 The West Virginia occupational therapy practice act
- 2 is enacted to safeguard the public health, safety and

3 welfare, and to assure the availability of high quality  
4 occupational therapy services to persons in need of such  
5 services. It is the purpose of this article to provide for  
6 the regulation of persons presenting themselves as an  
7 occupational therapist or as an occupational therapy  
8 assistant.

**§30-28-3. Definitions.**

1 In this article, the following terms shall have the  
2 respective meanings provided in this section unless the  
3 context clearly requires a different meaning:

4 (a) "Association" means the West Virginia occupa-  
5 tional therapy association.

6 (b) "Board" means the West Virginia board of occu-  
7 pational therapy.

8 (c) "License" means a valid and current certificate of  
9 registration issued by the West Virginia board of occu-  
10 pational therapy.

11 (d) "Occupational therapy" means the evaluation,  
12 treatment, and aid in diagnosis of problems interfering  
13 with functional performance in persons impaired by  
14 physical illness or injury, emotional disorder, congenital  
15 or developmental disability, or the aging process in order  
16 to achieve optimum functioning and for prevention and  
17 health maintenance. Specific occupational therapy ser-  
18 vices include, but are not limited to, activities of daily  
19 living (ADL); the design, fabrication, and application  
20 of splints; sensorimotor activities; the use of specifically  
21 designed crafts; guidance in the selection and use of  
22 adaptive equipment; therapeutic activities to enhance  
23 functional performance; prevocational evaluation and  
24 training; and consultation concerning the adaption of  
25 physical environments for the handicapped. These ser-  
26 vices are provided to individuals or groups through medi-  
27 cal, health, educational and social systems and for the  
28 maintenance of health through these systems.

29 (e) "Occupational therapist" means a person licensed  
30 to practice occupational therapy as defined in this article,  
31 and whose license is in good standing.

32 (f) "Occupational therapy assistant" means a person  
33 licensed to assist in the practice of occupational therapy  
34 under the general supervision of the licensed occupational  
35 therapist, and whose license is in good standing. As  
36 contained in this section, the term "general supervision"  
37 means initial direction and periodic inspection of the  
38 actual activities; however, the supervising licensed occu-  
39 pational therapist need not always be physically present  
40 or on the premises when the licensed assistant is per-  
41 forming services.

42 (g) "Occupational therapy aide" means a person who  
43 assists in the practice of occupational therapy, who works  
44 under the direct supervision of an occupational therapist  
45 and the occupational therapy assistant and whose ac-  
46 tivities require an understanding of occupational therapy  
47 but do not require professional or advanced training in  
48 the basic anatomical, biological, psychological and social  
49 sciences involved in the practice of occupational therapy.  
50 As contained in this section, the term "direct supervision"  
51 shall mean the actual physical presence of a licensed  
52 occupational therapist or licensed occupational therapy  
53 assistant.

#### §30-28-4. License required.

1 (a) No person may present himself as an occupa-  
2 tional therapist or occupational therapy assistant in  
3 this state unless she or he is licensed in accordance  
4 with the provisions of this article. No firm, partner-  
5 ship, association or corporation may advertise or other-  
6 wise offer to provide or convey the impression that it is  
7 providing occupational therapy unless an individual  
8 holding a current valid license or permit under this  
9 article is or will at the appropriate time be rendering  
10 the occupational therapy services to which reference is  
11 made.

12 (b) A licensed occupational therapist shall not treat  
13 persons by occupational therapy or otherwise other than  
14 referral by a licensed physician or surgeon, psychologist  
15 or psychiatrist, dentist, osteopathic physician or surgeon,  
16 or chiropractist or podiatrist. A licensed occupational

17 therapy assistant shall not practice occupational therapy  
18 other than in accordance with the definitional require-  
19 ments of an occupational therapy assistant as specified  
20 in subdivision (f), section three of this article.

**§30-28-5. West Virginia board of occupational therapy; estab-  
lishment; terms of office; vacancies; removal of  
members; meetings; compensation.**

1 (a) There is hereby established the West Virginia  
2 board of occupational therapy which shall consist of  
3 five members appointed by the governor by and with  
4 the advice and consent of the Senate. The members  
5 of the board shall be citizens of the United States and  
6 residents of this state for at least one year prior to their  
7 appointment. Three members shall have been engaged  
8 in rendering occupational therapy services to the public  
9 by teaching or performing research in occupational  
10 therapy for at least three years immediately preceding  
11 their appointment or shall have been a registered oc-  
12 cupational therapist for at least three years immediately  
13 preceding their appointment. One such member so ap-  
14 pointed shall have been engaged in rendering occupa-  
15 tional therapy services as a registered occupational  
16 therapy assistant for at least three years immediately  
17 preceding his appointment. Such appointees shall at  
18 all times be holders of valid licenses for the practice of  
19 occupational therapy in the state. Except for the mem-  
20 bers of the first board appointed from the list submitted  
21 by the association, all of such members shall fulfill  
22 the requirements for licensure under this article. One  
23 member shall be appointed by the governor to represent  
24 the public.

25 (b) The board shall, within ninety days after the  
26 effective date of this article, be selected as provided in  
27 subsection (a). The members of the first board shall  
28 serve the following terms: Two members for a term  
29 of one year, two members for a term of two years, and  
30 one member for a term of three years. At the expiration  
31 of the above terms, board members shall be appointed  
32 in the same manner as the initial appointment for a

33 period of three years, but no person shall be appointed  
34 to serve more than two consecutive terms.

35 (c) Terms shall begin on the first day of the calendar  
36 year and end on the last day of the calendar year or  
37 until successors are appointed, except for the first mem-  
38 bers who shall serve through the last calendar day of  
39 the year in which they are appointed before commenc-  
40 ing the terms prescribed by this section.

41 (d) When a vacancy occurs on the board, the board  
42 shall appoint a member to fill the unexpired  
43 term.

44 (e) The governor, after notice and opportunity for  
45 hearing by the board, may remove any member of the  
46 board for neglect of duty, incompetence, revocation or  
47 suspension of the member's license, or other dishonor-  
48 able conduct. After such removal, or vacancy due to  
49 other reasons, the board shall appoint a successor to  
50 the unexpired term. The successor shall meet the quali-  
51 fications of board members as established in subsection  
52 (a) of this section.

53 (f) The board shall elect from its membership a  
54 chairman and secretary-treasurer. A majority of the  
55 members of the board shall constitute a quorum and  
56 shall meet during the first month of the calendar year  
57 to select a chairman. At least one additional meeting  
58 shall be held before the end of the calendar year. Further  
59 meetings may be convened at the call of the chairman  
60 or on the request of any three board members.

61 (g) Members may be reimbursed for all reasonable  
62 and necessary expenses actually incurred in the per-  
63 formance of their duties. Such members may be paid  
64 reasonable compensation not to exceed fifty dollars per  
65 day for days spent in performance of their duties.

66 (h) All moneys paid to the board shall be accepted  
67 by a person designated by the board and deposited by  
68 her/him with the treasurer of the state and credited  
69 to an account to be known as the "West Virginia Board  
70 of Occupational Therapy." The compensation of and  
71 the reimbursement of all reasonable and necessary ex-

72 penses actually incurred by the members of the board  
73 and all other costs and expenses incurred by the board in  
74 the administration of this article shall be paid from  
75 such fund, and no part of the state's general revenue  
76 fund shall be expended for such purpose.

**§30-28-6. Powers and duties of board.**

1 (a) The board shall administer, coordinate, and en-  
2 force the provisions of this article.

3 (b) The board shall have the responsibility of evaluat-  
4 ing the qualifications of applicants for licensure under  
5 this article.

6 (c) The board shall determine that the applicant suc-  
7 cessfully completed the academic requirements of an  
8 educational program in occupational therapy. For an  
9 occupational therapist, such a program shall be ac-  
10 credited by the American medical association in col-  
11 laboration with the American occupational therapy as-  
12 sociation. For an occupational therapy assistant, such  
13 program shall be approved by the American occupa-  
14 tional therapy association.

15 (d) The board shall prepare or approve all examina-  
16 tions of applicants for license at least twice a year,  
17 determine the qualifications and authorize the issuance  
18 of licenses to qualified occupational therapists and oc-  
19 cupational therapy assistants; renew, suspend, or revoke  
20 licenses in the manner provided.

21 (e) The board shall appoint representatives or contract  
22 with qualified testing services to conduct or supervise  
23 examinations and designate time and place for examining  
24 applicants.

25 (f) The board shall establish standards for the con-  
26 tinuing professional competence of persons subject to  
27 this article.

28 (g) The board shall establish fees and maintain a regis-  
29 ter of all persons holding a license and a record of all in-  
30 spections made.

31 (h) The board shall conduct such hearings and keep

32 such records and minutes as are necessary to carry out  
33 its functions. It shall provide reasonable public notice  
34 to the appropriate persons of the time and place of  
35 all hearings authorized under this article in such a  
36 manner and at such times as it may determine by its  
37 rules and regulations.

38 (i) The board shall adopt rules and regulations re-  
39 lating to professional conduct to carry out the policy of  
40 this article, including but not limited to regulations re-  
41 lating to professional licensure and the establishment of  
42 ethical standards of practice. Any such rules and regula-  
43 tions so adopted shall be subject to the provisions of chap-  
44 ter twenty-nine-a of this code.

45 (j) The board may investigate complaints and al-  
46 legations concerning the violation of provisions of this  
47 article and may examine witnesses in connection with  
48 these investigations.

49 (k) The board shall make an annual report to the  
50 governor which report shall contain an account of duties  
51 performed, actions taken and appropriate recommenda-  
52 tions.

53 (l) The board is empowered to prescribe and publish  
54 reasonable application fees. Such fees shall be com-  
55 mensurate with the cost of fulfilling the duties of the  
56 board as defined by this article.

**§30-28-7. License required; persons and practices not affected.**

1 (a) No person may hold himself out as an occupa-  
2 tional therapist or an occupational therapy assistant in  
3 this state unless he is licensed in accordance with the  
4 provisions of this article.

5 (b) Nothing in this article shall be construed as  
6 preventing or restricting the practice, services or ac-  
7 tivities of:

8 (1) Any person licensed under any other law of this  
9 state, including physicians, nurses, clinical psychologists,  
10 speech pathologists and audiologists, dentists, and physical

11 therapists, from engaging in the profession or occupation  
12 for which he is licensed;

13 (2) Any person employed as an occupational thera-  
14 pist or an occupational therapy assistant by the govern-  
15 ment of the United States, if such a person provides  
16 occupational therapy solely under the direction or control  
17 of the organization by which he is employed;

18 (3) Any person pursuing a course of study leading  
19 to a degree or certificate in occupational therapy in an  
20 educational program which is accredited by the Ameri-  
21 can occupational therapy association in collaboration  
22 with the American medical association, or in an educa-  
23 tional program approved by the American occupational  
24 therapy association, and if such person is designated  
25 by a title which clearly indicates his status as a student  
26 or trainee;

27 (4) Any person fulfilling the supervised field work  
28 experience, if such activities and services constitute a  
29 part of the experience necessary to meet the require-  
30 ments of section eight of this article;

31 (5) Any person performing occupational therapy ser-  
32 vices in this state not licensed under this article, if  
33 such services are performed for no more than ninety  
34 consecutive days a calendar year in association with an  
35 occupational therapist licensed under this article, if such  
36 person meets the qualification for license under this  
37 article, except for the qualifying examination; or

38 (6) Any person performing occupational therapy  
39 services in this state not licensed under this article, if  
40 such services are performed for no more than one  
41 hundred eighty consecutive calendar days in a calendar  
42 year and if:

43 (A) Such a person is licensed under the law of an-  
44 other state which has licensure requirements equivalent  
45 to the requirements of this article; or

46 (B) Such a person meets the requirements for certifi-  
47 cation as an occupational therapist registered (OTR) or

48 a certified occupational therapy assistant (COTA) estab-  
49 lished by the American occupational therapy association.

**§30-28-8. Qualifications of applicants for license.**

1 (a) To be eligible for a license to engage in the practice  
2 of occupational therapy, the applicant must:

3 (1) Be of good moral character;

4 (2) Have successfully completed the academic re-  
5 quirements of an educational program in occupational  
6 therapy recognized by the board, with concentration in  
7 biologic or physical science, psychology and sociology,  
8 and with education in selected manual skills. For an  
9 occupational therapist, such a program shall be ac-  
10 credited by the American medical association in col-  
11 laboration with the American occupational therapy as-  
12 sociation. For an occupational therapy assistant, such  
13 program shall be approved by the American occupational  
14 therapy association;

15 (3) Have successfully completed a period of supervised  
16 field work experience at a recognized educational insti-  
17 tution or a training program approved by the educa-  
18 tional institution where she or he met the academic  
19 requirements. For an occupational therapist, a minimum  
20 of six months of supervised field work experience is  
21 required. For an occupational therapy assistant, a mini-  
22 mum of two months of supervised field work experience is  
23 required; and

24 (4) Have passed an examination conducted by the  
25 board as provided in section six of this article.

26 (b) An applicant who has practiced as an occupational  
27 therapy assistant for four years and has successfully  
28 completed the supervised field work experience required  
29 in subdivision (3) of subsection (a) may take the ex-  
30 amination to be licensed as an occupational therapist  
31 without meeting the educational requirements for oc-  
32 cupational therapists made otherwise applicable under  
33 subdivision (2) of subsection (a).

**§30-28-9. Examination.**

1 (a) A person applying for licensure shall demonstrate

2 her or his eligibility in accordance with the require-  
3 ments of section eight of this article, and shall make  
4 application for examination to the board at least thirty  
5 days prior to the date of examination, upon a form and  
6 in such a manner as the board shall prescribe. Such  
7 application shall be accompanied by the fee prescribed  
8 by section fifteen of this article, which fee shall not be  
9 refunded. A person who fails an examination may make  
10 reapplication three times for reexamination accompanied  
11 by the prescribed fee.

12 (b) Each applicant for licensure under this article  
13 shall be examined by the board in written examination  
14 to test his knowledge of the basic and clinical sciences  
15 relating to occupational therapy, and occupational therapy  
16 theory and practice, including the professional skills and  
17 judgment of the applicant in the utilization of occupa-  
18 tional therapy techniques and methods, and such other  
19 subjects as the board may deem useful to determine the  
20 fitness for practice of the applicant.

21 (c) Applicants for licensure shall be examined at a  
22 time and place and under such supervision as the board  
23 may determine. Examinations shall be given at least  
24 twice each year at such places as designated by the  
25 board, and the board shall give reasonable statewide  
26 public notice of such examinations in accordance with  
27 its rules at least sixty days prior to their administra-  
28 tion, and shall notify by mail all applicants for  
29 examination of the time and place of their adminis-  
30 tration.

31 (d) Applicants may obtain their examination scores  
32 and may review their papers in accordance with such  
33 rules as the board may establish.

**§30-28-10. Waiver of requirements for licensure.**

1 (a) The board shall waive the examination and  
2 grant a license to any person certified prior to the effec-  
3 tive date of this article as an occupational therapist  
4 registered (OTR) or as a certified occupational therapy  
5 assistant (COTA) by the American occupational therapy  
6 association. The board shall waive the examination and

7 grant a license to any person so certified after the effec-  
8 tive date of this article, if the board considers the  
9 requirements for such certification to be equivalent to  
10 the requirements for licensure in this article.

11 (b) The board may waive the examination and grant  
12 a license to any applicant who shall present proof of  
13 current licensure as an occupational therapist or an  
14 occupational therapy assistant in another state, the Dis-  
15 trict of Columbia, or territory of the United States  
16 which requires standards for licensure considered by the  
17 board to be equivalent to the requirements for licensure  
18 in this article.

#### §30-28-11. Issuance of a license.

1 (a) The board shall issue a license to any person  
2 who meets the requirements of this article upon pay-  
3 ment of the license fee prescribed.

4 (b) The board shall issue a limited permit to per-  
5 sons who have completed the education and experience  
6 requirements of this article. This permit shall allow  
7 the person to practice occupational therapy under the  
8 supervision of an occupational therapist who holds a  
9 current license in this state and shall be valid until  
10 the date on which the results of the next qualifying  
11 examination have been made public. This limited per-  
12 mit shall not be renewed if the applicant has failed the  
13 examination.

14 (c) The board shall issue a limited permit to an  
15 occupational therapist or an occupational therapy assis-  
16 tant who has graduated from an occupational therapy  
17 curriculum of a foreign country or of a territory or  
18 possession of the United States. Such program shall be  
19 equivalent to academic requirements for graduates of  
20 occupational therapy programs in the United States and  
21 shall be satisfactory to the board. This permit shall  
22 allow the person to practice under the supervision of  
23 a licensed occupational therapist. A limited permit  
24 shall be valid for one year at which time the holder  
25 shall apply to the board for licensure. A limited permit

26 shall become null and void if the holder fails to pass  
27 a licensing examination.

28 (d) Any person who is issued a license as an occu-  
29 pational therapist under the terms of this article may  
30 use the words "occupational therapist registered," "li-  
31 censed occupational therapist," or "occupational thera-  
32 pist," or he may use the letters "O.T.R.," "L.O.T.," or  
33 "O.T.," in connection with his name or place of business  
34 to denote registration hereunder.

35 (e) Any person who is issued a license as an occu-  
36 pational therapy assistant under the terms of this article  
37 may use the words "occupational therapy assistant,"  
38 "licensed occupational therapy assistant," or "certified  
39 occupational therapy assistant" or may use the letters  
40 "O.T.A.," "L.O.T.A.," or "C.O.T.A.," in connection with  
41 his name or place of business to denote his registration  
42 hereunder.

43 (f) The board shall prescribe the form of licenses  
44 and each license shall be conspicuously displayed by  
45 the licensee at his principal place of practice, or, in the  
46 case of a license to act as an occupational therapy assis-  
47 tant, at his place of employment.

**§30-28-12. Renewal of license.**

1 (a) All licenses under this article shall be subject to  
2 renewal and shall expire unless renewed in the manner  
3 prescribed by the rules and regulations of the board  
4 upon the payment of a renewal fee. The board may  
5 establish additional requirements for license renewal  
6 which provide evidence of continued competency. The  
7 board may provide for late renewal of a license upon  
8 payment of a late renewal fee. Any license which has  
9 not been restored within five years following its expira-  
10 tion may not be renewed, restored or reissued thereafter.  
11 The holder of such a canceled license may apply for  
12 and obtain a valid license only upon compliance with all  
13 relevant requirements for issuance of a new license.

14 (b) A suspended license is subject to expiration and  
15 may be renewed as provided in this section, but such  
16 renewal shall not entitle the licensee, while the license

17 remains suspended and until it is reinstated, to engage  
 18 in the licensed activity or in other conduct or activity  
 19 in violation of the order or judgment by which the  
 20 license was suspended. If a license revoked on disci-  
 21 plinary grounds is reinstated, the licensee, as a condi-  
 22 tion of reinstatement, shall pay the renewal fee and  
 23 any late fee that may be applicable.

**§30-28-13. Suspension and revocation of license; refusal to renew.**

1 (a) The board shall, after notice and opportunity for  
 2 hearing, have the power to deny or refuse to renew,  
 3 suspend or revoke the license of, or impose probationary  
 4 conditions upon any licensee who has been guilty of  
 5 unprofessional conduct which has endangered or is likely  
 6 to endanger the health, welfare, or safety of the public.  
 7 Such unprofessional conduct includes:

8 (1) Obtaining a license by fraud, misrepresentation  
 9 or concealment of material facts;

10 (2) Being convicted of a felony or other crime involving  
 11 moral turpitude;

12 (3) Being guilty of unprofessional conduct as defined  
 13 by the rules established by the board;

14 (4) Violating any lawful order, rule, or regulation  
 15 rendered or adopted by the board; or

16 (5) Violating any provision of this article.

17 (b) Such denial, refusal to renew, suspension, revo-  
 18 cation or imposition of probationary condition upon a  
 19 license may be ordered by the board in a decision made  
 20 after a hearing in the manner provided by the rules  
 21 adopted by the board. One year from the date of the  
 22 revocation of a license, application may be made to the  
 23 board for reinstatement. The board shall have discretion  
 24 to accept or reject an application for reinstatement and  
 25 shall be required to hold a hearing to consider such re-  
 26 instatement.

**§30-28-14. Procedures for hearing.**

1 (a) Whenever the board shall deny an application for  
 2 any original or renewal license or any application for a

3 temporary permit or shall suspend or revoke any license  
4 or temporary permit it shall make and enter an order  
5 to that effect and serve a copy thereof on the applicant  
6 or licensee, as the case may be, by certified mail, return  
7 receipt requested. Such order shall state the grounds for  
8 the action taken and shall require that any license or  
9 temporary permit suspended or revoked thereby shall be  
10 returned to the board by the holder within twenty days  
11 after receipt of said copy of said order.

12 (b) Any person adversely affected by any such order  
13 shall be entitled to a hearing thereon as to all issues not  
14 excluded from the definition of a "contested case" as set  
15 forth in article one, chapter twenty-nine-a of this code if,  
16 within twenty days after receipt of a copy thereof, he  
17 files with the board a written demand for such hearing.  
18 A demand for hearing shall operate automatically to  
19 stay or suspend the execution of any order suspending or  
20 revoking a license or temporary permit or denying an  
21 application for a renewal of license. The board may re-  
22 quire the person demanding such hearing to give reason-  
23 able security for the costs thereof, and, if such person  
24 does not substantially prevail at such hearing, such costs  
25 shall be assessed against him and may be collected by a  
26 civil action or other proper remedy.

27 (c) Upon receipt of a written demand for such hear-  
28 ing, the board shall set time and place thereof not less  
29 than ten nor more than thirty days thereafter. The  
30 person demanding the hearing may be granted one con-  
31 tinuance as a matter of right and further continuances  
32 for good cause shown.

33 (d) All of the pertinent provisions of article five,  
34 chapter twenty-nine-a of this code shall apply to and  
35 govern the hearing and the administrative procedures in  
36 connection with and following such hearing, with like  
37 effect as if the provisions of said article five were set  
38 forth in this subsection.

39 (e) Any such hearing shall be conducted by a quorum  
40 of the board. For the purpose of conducting any such  
41 hearing any member of the board may issue subpoenas

42 and subpoenas duces tecum which shall be issued and  
43 served within the time and for the fees and shall be  
44 enforced, as specified in section one, article five of chapter  
45 twenty-nine-a of this code and all of the said section  
46 one provisions dealing with subpoenas and subpoenas  
47 duces tecum shall apply to subpoenas and subpoenas  
48 duces tecum issued for the purpose of a hearing here-  
49 under.

50 (f) At any such hearing the person who demanded  
51 the same may represent himself or be represented by an  
52 attorney admitted to practice law in this state. Upon re-  
53 quest by the board, it shall be represented at any such  
54 hearing by the attorney general or his assistants without  
55 additional compensation.

56 (g) After any such hearing and consideration of all of  
57 the testimony, evidence and record in the case, the board  
58 shall render its decision in writing. The written decision  
59 of the board shall be accompanied by findings of fact and  
60 conclusions of law as specified in section three, article  
61 five, chapter twenty-nine-a of this code, and a copy of  
62 such decision and accompanying findings and conclusions  
63 shall be served by certified mail, return receipt requested,  
64 upon the person demanding such hearing, and his attor-  
65 ney of record, if any.

66 (h) The decision of the board shall be final unless  
67 reversed, vacated or modified upon judicial review  
68 thereof in accordance with the provisions of section six-  
69 teen of this article.

### §30-28-15. Fees.

1 The board shall prescribe, and publish in the manner  
2 established by its rules, fees in amounts determined by  
3 the board for the following purposes:

4 (a) Application for examination;

5 (b) Initial license fee;

6 (c) Renewal of license fee; and

7 (d) Late renewal fee.

8 Such fees shall be commensurate with the cost of  
9 fulfilling the duties of the board as defined by this  
10 article.

**§30-28-16. Judicial review; appeal to supreme court of appeals;  
legal representation for board.**

1 Any person adversely affected by a decision of the  
2 board rendered after a hearing held in accordance with  
3 the provisions of section fourteen of this article shall  
4 be entitled to judicial review thereof. All of the per-  
5 tinent provisions of section four, article five, chapter  
6 twenty-nine-a of this code shall apply to and govern  
7 such judicial review with like effect as if the provisions  
8 of said section four were set forth in this section.

9 The judgment of the circuit court shall be final unless  
10 reversed, vacated or modified on appeal to the supreme  
11 court of appeals in accordance with the provisions of  
12 section one, article six, chapter twenty-nine-a of this  
13 code.

14 Legal counsel and services for the board in all appeal  
15 proceedings in any circuit court and the supreme court of  
16 appeals shall be provided by the attorney general  
17 or his assistants and in any circuit court by the prose-  
18 cuting attorney of the county as well, all without addi-  
19 tional compensation.

**§30-28-17. Penalties.**

1 (a) Any person who violates any provisions of this  
2 article, shall be guilty of a misdemeanor, and, upon con-  
3 viction thereof, shall be fined not less than fifty dollars  
4 and not more than five hundred dollars. A license held by  
5 any person convicted under this section shall be forfeited  
6 and revoked forthwith for one year from the date  
7 of such conviction.

8 (b) It is unlawful for any person who is not reg-  
9 istered under this article as an occupational therapist  
10 or as an occupational therapy assistant whose regis-  
11 tration has been suspended or revoked to use, in con-  
12 nection with his name or place of business, the words  
13 "occupational therapist," "licensed occupational thera-

14 pist," "occupational therapist registered," "occupational  
 15 therapy assistant," "licensed occupational therapy as-  
 16 sistant," "certified occupational therapy assistant," or  
 17 "occupational therapy aide"; or the letters "O.T.," "L.O.T.,"  
 18 "O.T.R.," "O.T.A.," "L.O.T.A.," "C.O.T.A.," or any other  
 19 words, letters, abbreviations, or insignia indicating or  
 20 implying that he is an occupational therapist or an oc-  
 21 cupational therapy assistant or to show in any way, orally,  
 22 in writing, in print, or by sign, directly or by implica-  
 23 tion, or to represent himself as an occupational therapist,  
 24 occupational therapy assistant, or occupational therapy  
 25 aide.

**§30-28-18. Actions to enjoin violations.**

1 Whenever it appears to the board that any person  
 2 has been or is violating or is about to violate any pro-  
 3 vision of this article, any reasonable rule and regula-  
 4 tion promulgated hereunder or any order or final decision  
 5 of the board, the board may apply in the name of the  
 6 state to the circuit court of the county in which the  
 7 violation or violations of any part thereof has occurred,  
 8 is occurring, or is about to occur, or the judge thereof  
 9 in vacation, for an injunction against such person and  
 10 any other persons who have been, are or are about to  
 11 be, involved in any practices, acts or omissions, so in  
 12 violation, enjoining such person or persons from any  
 13 such violation or violations. Such application may be  
 14 made and prosecuted to conclusion whether or not any  
 15 such violation or violations have resulted or shall re-  
 16 sult in prosecution or conviction under the provisions of  
 17 section seventeen of this article.

18 Upon application by the board, the circuit courts of  
 19 this state may by mandatory or prohibitory injunction  
 20 compel compliance with the provisions of this article,  
 21 the reasonable rules and regulations promulgated here-  
 22 under and all orders and final decisions of the board.  
 23 The court may issue a temporary injunction in any case  
 24 pending a decision on the merits of any application  
 25 filed.

26 The judgment of the circuit court upon any applica-

27 tion permitted by the provisions of this section shall be  
28 final unless reversed, vacated, or modified on appeal  
29 to the supreme court of appeals. Any such appeal shall  
30 be sought in the manner and within the time provided  
31 by law for appeals from circuit courts in other civil  
32 actions.

33 The board shall be represented in all such proceedings  
34 by the attorney general or his assistants and in such  
35 proceedings in the circuit court by the prosecuting at-  
36 torneys of the several counties as well, all without  
37 additional compensation.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Clarence C. Chastain  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1978.

J. C. Willou Jr.  
Clerk of the Senate

C. Blankenship  
Clerk of the House of Delegates

W. T. Bratcher Jr.  
President of the Senate

Donald L. Topp  
Speaker House of Delegates

The within is approved this the 24  
day of March, 1978.

John J. Raley  
Governor



APPROVED AND SIGNED BY THE GOVERNOR

RECEIVED

MAR 17 10 58 AM '78

OFFICE OF THE GOVERNOR

Date March 24, 1978

Time 11:30 A.M.

RECEIVED

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OFFICE  
SECY. OF STATE