

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 462

BY SENATOR TAKUBO

[Passed March 13, 2025; in effect from passage]

FILED

2025 MAR 24 P 5:13

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SB 462

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1 AN ACT to amend and reenact §30-28-3 of the Code of West Virginia, 1931, as amended; to
2 amend the code by adding a new section, designated §30-28-4a; and to repeal §30-28-
3 15, 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 "Association" means the West Virginia Occupational Therapy Association.

4 "Board" means the West Virginia Board of Occupational Therapy.

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

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

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

17 "Direct supervision" means the actual physical presence of a licensed supervising
18 occupational therapist or licensed occupational therapy assistant, and the specific delineation of

19 tasks and responsibilities for personally reviewing and interpreting the results of any habilitative
20 or rehabilitative procedures conducted by the limited permit holder, occupational therapy student,
21 or aide. Direct supervision includes direct close supervision and direct continuous supervision.

22 "Direct close supervision" means the licensed supervising occupational therapist or
23 licensed occupational therapy assistant is in the building and has daily direct contact at the site
24 of work.

25 "Direct continuous supervision" means the licensed supervising occupational therapist or
26 licensed occupational therapy assistant is physically present and in direct line of sight of the
27 occupational therapy student or aide.

28 "General supervision" means initial direction and periodic inspection of the activities of a
29 licensed occupational therapist assistant by the supervising licensed occupational therapist, but
30 does not necessarily require constant physical presence on the premises while the activities are
31 performed.

32 "License" means a valid and current license issued by the board under the provisions of
33 this article.

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

39 "Occupational therapist" means a person licensed by the board under the provisions of
40 this article to engage in the practice of occupational therapy.

41 "Occupational therapy assistant" means a person licensed by the board under the
42 provisions of this article to assist in the practice of occupational therapy under the general
43 supervision of an occupational therapist.

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

48 "The practice of occupational therapy" means the therapeutic use of everyday life activities
49 or occupations to address the physical, cognitive, psychosocial, sensory, and other aspects of
50 performance of individuals or groups of individuals, including those who have or are at risk for
51 developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation
52 or participation restriction, to promote health, wellness and participation in roles and situations in
53 home, school, workplace, community, and other settings.

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

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

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

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

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

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

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

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

17 (3) Pursuant to a court order.

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

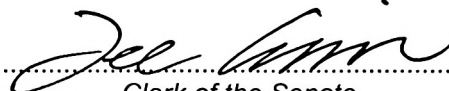
20 (e) The applicant shall pay the actual costs of the fingerprinting and criminal history record
21 check.

22 (f) The board may propose rules or amendments to existing rules for legislative approval
23 to comply with the provisions of this section. These rules or amendments to rules shall be
24 proposed pursuant to the provisions of §29A-3-1 *et seq.* of this code within the applicable time
25 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.**

1 [Repealed].

The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.


Clerk of the Senate


Clerk of the House of Delegates

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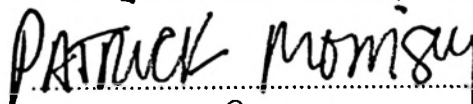
Originated in the Senate.

In effect from passage.


President of the Senate


Speaker of the House of Delegates

The within is approved this the 24th
Day of March, 2025.


Governor

195. 10. 1. 1951

PRESENTED TO THE GOVERNOR

MAR 18 2025

Time 2:48pm