

GENERAL ASSEMBLY OF NORTH CAROLINA  
1983 SESSION

CHAPTER 1073  
SENATE BILL 436

AN ACT TO PROVIDE FOR THE LICENSING OF PERSONS PRACTICING  
OCCUPATIONAL THERAPY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article 18D to read:

"ARTICLE 18D.

"Occupational Therapy.

"§ 90-270.65. **Title.**—This act shall be known as the 'North Carolina Occupational Therapy Practice Act'.

"§ 90-270.66. **Declaration of purpose.**—The North Carolina Occupational Therapy Practice Act is enacted to safeguard the public health, safety and welfare, to protect the public from being harmed by unqualified persons, to assure the highest degree of professional care and conduct on the part of occupational therapists and occupational therapist assistants, to provide for the establishment of standards of education, and to insure the availability of occupational therapy services of high quality to persons in need of such services. It is the purpose of this act to provide for the regulation of persons offering occupational therapy services to the public.

"§ 90-270.67. **Definitions.**—As used in this Article, unless the context clearly requires a different meaning:

- (1) 'Board' means the North Carolina Board of Occupational Therapy.
- (2) 'Occupational therapy' means a health care profession providing evaluation, treatment and consultation to help individuals achieve a maximum level of independence by developing skills and abilities interfered with by disease, emotional disorder, physical injury, the aging process, or impaired development. Occupational therapists use purposeful activities and specially designed prosthetic devices to reduce specific impairments and to help individuals achieve independence at home and in the work place.
- (3) 'Occupational therapist' means an individual licensed in good standing to practice occupational therapy as defined in this Article.
- (4) 'Occupational therapist assistant' means an individual licensed in good standing to assist in the practice of occupational therapy under this Article, who performs activities commensurate with his education and training under the supervision of a licensed occupational therapist.

- (5) 'Person' means any individual, partnership, unincorporated organization, or corporate body, except that only an individual may be licensed under this Article.

**"§ 90-270.68. Establishment of board, terms of members, meetings, compensation.—**

The North Carolina Board of Occupational Therapy is created. The board shall have six members. All members shall be appointed by the Governor and shall be residents of this State at the time of and during their appointment. Three members shall be occupational therapists and one shall be an occupational therapist assistant; and one shall be a physician licensed to practice medicine who specializes in orthopedic medicine; each of these members must have practiced, taught or engaged in research in occupational therapy for at least three of the five years immediately preceding his appointment. The remaining board member shall represent the public at large.

On or before October 1, 1984, the Governor shall appoint two occupational therapist members to serve a one-year term, one public member to serve a two-year term, one occupational therapist assistant to serve a three-year term, and one occupational therapist to serve a four-year term and the physician to serve a four-year term. Thereafter the term of office for all members shall be four years and only persons licensed under this Article shall be eligible for appointment to the occupational therapist and occupational therapist assistant positions on the board. No member shall serve more than two complete consecutive terms.

Each year the board shall meet and designate a chairman and a secretary-treasurer from among its members. The board may hold additional meetings upon call of the chairman or any two board members. A majority of the board membership shall constitute a quorum.

Members of the board shall receive no compensation for their services, but shall be entitled to travel, per diem, and other expenses authorized by G.S. 93B-5.

**"§ 90-270.69. Powers and duties of the board.—**The board shall have the following powers and duties:

- (1) examine and determine the qualifications and fitness of applicants for licensure to practice occupational therapy in this State;
- (2) conduct investigations, subpoena individuals and records, and do all other things necessary and proper to discipline persons licensed under this Article and to enforce this Article;
- (3) issue and renew, and deny, suspend, revoke or refuse to issue or renew any license under this Article;
- (4) adopt, amend, or repeal any reasonable rules or regulations necessary to carry out the purposes of this Article, including but not limited to rules establishing ethical standards of practice;
- (5) employ professional, clerical, investigative or special personnel necessary to carry out the provisions of this Article, and purchase or rent office space, equipment and supplies;
- (6) adopt a seal by which it shall authenticate its proceedings, official records, and licenses;

- (7) conduct administrative hearings in accordance with Article 3 of Chapter 150A of the General Statutes when a 'contested case' as defined in G.S. 150A- 2(2) arises under this Article;
- (8) establish reasonable fees for applications for examination; initial, provisional, and renewal licenses; and other services provided by the board;
- (9) submit an annual report to the Governor and General Assembly of all its official actions during the preceding year, together with any recommendations and findings regarding improvement of the profession of occupational therapy;
- (10) publish and make available upon request the licensure standards prescribed under this Article and all rules and regulations established by the board;
- (11) approve educational curricula and field work experience accredited by the American Medical Association and American Occupational Therapy Association for persons seeking licensure under this Article.

**"§ 90-270.70. Requirements for licensure.**—Any individual who desires to be licensed as an occupational therapist or occupational therapist assistant shall file a written application with the board on forms provided by the board, showing to the satisfaction of the board that the applicant:

- (1) is of good moral character; and
- (2) has passed an examination by the board as provided in this Article.

Applicants for licensure as an occupational therapist must also have successfully completed an accredited occupational therapy educational curriculum and supervised field work experience of at least six months' duration. Applicants for licensure as an occupational therapist assistant must also have successfully completed an accredited occupational therapy assistant educational curriculum and supervised field work experience of at least two months' duration.

**"§ 90-270.71. Examination.**—(a) Applicants for licensure under this Article shall file an application at least 60 days before the date of an examination, upon a form and in such a manner as the board shall prescribe. The application shall be accompanied by the fee prescribed under G.S. 90-270.77, and no portion of the fee shall be refundable. Any applicant who fails an examination may apply for reexamination upon payment of the fee prescribed under G.S. 90-270.77.

(b) Each applicant for licensure under this Article shall take a written examination on subjects including anatomy; physiology; kinesiology; psychology; sociology; human growth and development; neuroanatomy; neurophysiology; anthropology; occupational therapy theory and practice, including the applicant's professional skills and judgment in the utilization of occupational therapy techniques and methods; and such other related subjects as the board may deem useful to determine the applicant's fitness to practice. The board shall establish standards for acceptable performance on the examination.

(c) Applicants for licensure shall be examined at a time and place and under such supervision as the board may determine. Examinations shall be given at least twice each year within this State.

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

**"§ 90-270.72. Exemption from requirements.**—(a) The board shall waive the examination, education, and field work requirements of G.S. 90-270.70 and shall grant a license to any applicant who presents evidence satisfactory to the board that he or she has been engaged in the practice of occupational therapy as an occupational therapist or occupational therapist assistant before September 1, 1984. Proof of such actual practice shall be presented to the board as established by regulation. To qualify for exemption under this section, the applicant shall file an application for licensure no later than September 1, 1985.

(b) The board may grant a license without examination to any applicant who presents proof satisfactory to the board of current licensure as an occupational therapist or occupational therapist assistant in another state or the District of Columbia, provided the other jurisdiction's licensure standards are considered by the board to be substantially equivalent to or higher than those prescribed in this Article.

**"§ 90-270.73. Issuance of license.**—(a) The board shall issue a license to any individual who meets the requirements of this Article upon payment of the license fee prescribed in G.S. 90- 270.77.

(b) Any individual licensed as an occupational therapist under this Article may use the words 'occupational therapist' and may use the letters 'O.T.' or 'O.T.R./L.' in connection with his name or place of business.

(c) Any individual licensed as an occupational therapist assistant under this Article may use the words 'occupational therapist assistant' and may use the letter 'O.T.A.' or 'C.O.T.A./L.' in connection with his name or place of business.

**"§ 90-270.74. Provisional licenses.**—The board may grant a provisional license for a period not exceeding nine months to any individual who has successfully completed the educational and field work experience requirements and has made application to take the examination required under G.S. 90-270.70. A provisional license shall allow the individual to practice as an occupational therapist or occupational therapist assistant under the supervision of an occupational therapist licensed in this State and shall be valid until revoked by the board. A provisional license shall not be issued to applicant who has failed the examination in this State or another jurisdiction.

**"§ 90-270.75. Renewal of license.**—(a) Licenses issued under this Article shall be subject to annual renewal upon the payment of a renewal fee specified under G.S. 90-270.77 and compliance with this Article, and shall expire unless renewed in the manner prescribed by the board. The board may provide for the late renewal of a license upon the payment of a late fee in accordance with G.S. 90-270.77, but no such late renewal may be granted more than five years after a license expires.

(b) A suspended license is subject to expiration and may be renewed as provided in this section, but such renewal shall not entitle the licensee to engage in the licensed activity or in any other conduct or activity in violation of the order or judgment by

which the license was suspended until the license is reinstated. If a license revoked on disciplinary grounds is reinstated, the licensee shall pay the renewal fee and any late fee that may be applicable.

**"§ 90-270.76. Suspension, revocation and refusal to renew license.**—(a) The board may deny or refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions on a license if the licensee or applicant for licensure has engaged in any of the following conduct:

- (1) employment of fraud, deceit or misrepresentation in obtaining or attempting to obtain a license, or the renewal thereof;
- (2) conviction of or a plea of guilty or nolo contendere to any crime involving moral turpitude;
- (3) adjudication of insanity or incompetency, until proof of recovery from the condition can be established;
- (4) engaging in any act or practice violative of any of the provisions of this Article or any rule or regulation adopted by the board hereunder, or aiding, abetting or assisting any person in such a violation;
- (5) committing an act or acts of malpractice, gross negligence or incompetence in the practice of occupational therapy;
- (6) practicing as a licensed occupational therapist or occupational therapist assistant without a current license;
- (7) engaging in conduct that could result in harm or injury to the public.

(b) Such denial, refusal to renew, suspension, revocation or imposition of probationary conditions upon a license may be ordered by the board after a hearing held in accordance with G.S. Chapter 150A and rules adopted by the board. An application may be made to the board for reinstatement of a revoked license if the revocation has been in effect for at least one year.

**"§ 90-270.77. Fees.**—The board shall adopt and publish, in the manner established by its rules and regulations, fees reasonably necessary to cover the cost of services rendered for the following purposes:

- (1) for an initial application, a fee not to exceed ten dollars (\$10.00);
- (2) for examination, reexamination, or issuance of a license a fee not to exceed one hundred dollars (\$100.00);
- (3) for the renewal of a license, a fee not to exceed fifty dollars (\$50.00);
- (4) for the late renewal of a license, a fee not to exceed fifty dollars (\$50.00);
- (5) for a provisional license, a fee not to exceed thirty-five dollars (\$35.00); and
- (6) for copies of board rules and licensure standards, charges not exceeding the actual cost of printing and mailing.

**"§ 90-270.78. False representation of license prohibited.**—It is unlawful for any person who is not licensed in accordance with this Article or whose license has been suspended, revoked or not renewed by the board to:

- (1) engage in the practice of occupational therapy;

- (2) orally, in writing, in print or by sign, or in any other manner, directly or by implication, represent that he is engaging in occupational therapy; or
- (3) use in connection with his name or place of business the words 'occupational therapist' or 'occupational therapist assistant'; or the letters 'O.T.', 'O.T.R./L.', 'O.T.A.', or 'C.O.T.A./L.' or any other words, letters, abbreviations or insignia indicating or implying that the person is an occupational therapist or occupational therapist assistant.

**"§ 90-270.79. Violation a misdemeanor.**—Any person who violates any provision of this Article shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined or imprisoned, or both, in the discretion of the court. Each act of such unlawful practice shall constitute a distinct and separate offense.

**"§ 90-270.80. Injunctions.**—The board may make application to any appropriate court for an order enjoining violations of this Article, and upon a showing by the board that any person has violated or is about to violate this Article, the court may grant an injunction, restraining order, or take other appropriate action.

**"§ 90-270.81. Persons and practices not affected.**—Nothing in this Article shall be construed to prevent or restrict:

- (1) any person registered, certified, credentialed, or licensed to engage in another profession or occupation or any person working under the supervision of a person registered, certified, credentialed, or licensed to engage in another profession or occupation in this State from performing work incidental to the practice of that profession or occupation as long as the person does not represent himself as an occupational therapist or occupational therapist assistant;
- (2) any person employed as an occupational therapist or occupational therapist assistant by the government of the United States, if he provides occupational therapy solely under the direction or control of the organization by which he is employed;
- (3) any person pursuing a course of study leading to a degree or certificate in occupational therapy at an accredited or approved educational program if such activities and services constitute a part of a supervised course of study and if the person is designated by a title which clearly indicates his status as a student or trainee;
- (4) any person fulfilling the supervised field work experience required for licensure under this Article if the person is designated by a title which clearly indicates his status as a student or trainee;
- (5) occupational therapists or occupational therapist assistants licensed in other jurisdictions who are teaching or participating in special occupational therapy education projects, demonstrations or courses in this State, provided their evaluation and treatment of patients is minimal."

Sec. 2. Severability. If any portion of this act shall be declared unconstitutional or otherwise invalid or unenforceable, such unconstitutionality or invalidity shall not affect the enforceability of the remaining portions of this act."

Sec. 3. This act shall become effective September 1, 1984.

In the General Assembly read three times and ratified, this the 3rd day of July, 1984.