

MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 757, L.D. 2066)

2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND ELEVENTH LEGISLATURE
5

6 Legislative Document

No. 2243

7
8 S.P. 837

In Senate, March 15, 1983

9 Reported by Senator Sewall of Lincoln from the Committee on Business
10 Legislation and ordered printed under Joint Rule 2.

11 Original bill presented by Senator Clark of Cumberland. Cosponsored by
12 Senator Gill of Cumberland, Senator Charette of Androscoggin and
13 Representative Murray of Bangor.

14 JOY J. O'BRIEN, Secretary of the Senate

15 STATE OF MAINE
16

17 IN THE YEAR OF OUR LORD
18 NINETEEN HUNDRED AND EIGHTY-FOUR

19 AN ACT to License Occupational
20 Therapists.

21 Be it enacted by the People of the State of Maine as
22 follows:

23 Sec. 1. 10 MRSA §8001, as amended by PL 1983, c.
24 553, §11, is further amended to read:

25 §8001. Department; agencies within department

26 There is created and established the Department
27 of Business, Occupational and Professional Regula-
28 tion, in this chapter referred to as the "depart-
29 ment," to regulate financial institutions, insurance
30 companies, commercial sports, grantors of consumer
31 credit and to license and regulate professions and
32 occupations. The department shall be composed of the
33 following bureaus, boards and commissions:

1 Banking, Bureau of;
2 Consumer Credit Protection, Bureau of;
3 Insurance, Bureau of;
4 Athletic Commission, Maine;
5 Real Estate Commission;
6 Running Horse Racing Commission, State;
7 Arborist Examining Board;
8 Auctioneers Advisory Board;
9 Commercial Driver Education, Board of;
10 Electricians' Examining Board;
11 Foresters, State Board of Registration for Pro-
12 fessional;
13 Funeral Service, State Board of;
14 Geologists and Soil Scientists, State Board of
15 Certification for;
16 Hearing Aid Dealers and Fitters, Board of;
17 Manufactured Housing Board;
18 Occupational Therapy Practice, Board of;
19 Oil and Solid Fuel Board;
20 Physical Therapy, Board of Examiners in;
21 Plumbers' Examining Board;
22 Psychologists, State Board of Examiners of;
23 Social Worker Registration, State Board of;
24 Speech Pathology and Audiology, Board of Examin-
25 ers on; and

1 Substance Abuse Counselors, Board of Registration
2 of.

3 Sec. 2. 32 MRSA, c. 32 is enacted to read.

4 CHAPTER 32

5 OCCUPATIONAL THERAPISTS

6 §2271. Declaration of purpose

7 In order to safeguard the public health, safety
8 and welfare, to protect the public from incompetent
9 and unauthorized persons; to assure the highest de-
10 gree of professional conduct on the part of occupa-
11 tional therapists and occupational therapy assist-
12 ants; and to assure the availability of occupational
13 therapy services of high quality to persons in need
14 of those services, it is the purpose of this chapter
15 to provide for the regulation of persons offering oc-
16 cupational therapy services.

17 §2272. Definitions

18 As used in this chapter, unless the context oth-
19 erwise indicates, the following terms have the fol-
20 lowing meanings.

21 1. Board. "Board" means the Board of Occupa-
22 tional Therapy Practice established under this chap-
23 ter.

24 2. Commissioner. "Commissioner" means the Com-
25 missioner of Business, Occupational and Professional
26 Regulation.

27 3. Department. "Department" means the Depart-
28 ment of Business, Occupational and Professional Regu-
29 lation.

30 4. Occupational therapist. "Occupational thera-
31 pist" means a person licensed to practice occupa-
32 tional therapy under this chapter.

33 5. Occupational therapy. "Occupational therapy"
34 means the evaluation, planning and implementation of
35 a program of purposeful activities to develop or

1 maintain adaptive skills necessary to achieve the
2 maximal physical and mental functioning of the indi-
3 vidual in his daily pursuits. The practice of "occu-
4 pational therapy" includes, but is not limited to,
5 evaluation and treatment of individuals whose abili-
6 ties to cope with the tasks of living are threatened
7 or impaired by developmental deficits, the aging pro-
8 cess, learning disabilities, poverty and cultural
9 differences, physical injury or disease, psychologi-
10 cal and social disabilities or anticipated dysfunc-
11 tion, using:

12 A. Treatment techniques as task-oriented activi-
13 ties to prevent or correct physical or emotional
14 deficits or to minimize the disabling effect of
15 these deficits in the life of the individual;

16 B. Evaluation techniques as assessment of
17 sensory motor abilities, assessment of the devel-
18 opment of self-care activities and capacity for
19 independence, assessment of the physical capacity
20 for prevocational and work tasks, assessment of
21 play and leisure performance and appraisal of
22 living areas for the handicapped; and

23 C. Specific occupational therapy techniques such
24 as activities of daily living skills, the fabri-
25 cation and application of splinting devices,
26 sensory motor activities, the use of specifically
27 designed manual and creative activities, guidance
28 in the selection and use of adaptive equipment,
29 specific exercises to enhance functional perform-
30 ance and treatment techniques for physical capa-
31 bilities for work activities.

32 The techniques are applied in the treatment of indi-
33 vidual patients or clients, in groups or through so-
34 cial systems.

35 6. Occupational therapy aide. "Occupational
36 therapy aide" means a person who assists in the prac-
37 tice of occupational therapy under the direct on-site
38 supervision of an occupational therapist or occupa-
39 tional therapy assistant and whose activities require
40 an understanding of occupational therapy, but do not
41 require professional or advanced training in the ba-
42 sic anatomical, biological, psychological and social

1 sciences involved in the practice of occupational
2 therapy.

3 7. Occupational therapy assistant. "Occupational
4 therapy assistant" means a person licensed to
5 assist in the practice of occupational therapy, under
6 this chapter, who works under the supervision of an
7 occupational therapist.

8 8. Person. "Person" means any individual, part-
9 nership, unincorporated organization or corporation.

10 §2273. Board of Occupational Therapy Practice; es-
11 tablishment; compensation

12 1. Establishment and membership. There is es-
13 tablished within the Department of Business, Occupa-
14 tional and Professional Regulation, a Board of Occu-
15 pational Therapy Practice. The board shall consist
16 of 5 members appointed by the Governor. The persons
17 appointed to the board must have been engaged in ren-
18 dering occupational therapy services to the public,
19 teaching or research in occupational therapy for at
20 least 2 years immediately preceding their appoint-
21 ments. At least 3 board members shall be occupa-
22 tional therapists. One member shall be either an occupa-
23 tional therapist or an occupational therapy assist-
24 ant, if available. These members shall at all times
25 be holders of valid licenses for the practice of oc-
26 cupational therapy in the State, except for the mem-
27 bers of the first board, all of whom shall fulfill
28 the requirements for licensure of this chapter. The
29 remaining member shall be a member of a health pro-
30 fession or member of the public with an interest in
31 the rights of the consumers of health services.

32 2. Terms of appointment. The Governor, within
33 60 days following the effective date of this chapter,
34 shall appoint 2 board members for a term of one year,
35 2 for a term of 2 years and one for a term of 3
36 years. Appointments made thereafter shall be for
37 3-year terms, but no person may be appointed to serve
38 more than 2 consecutive terms. Terms shall begin on
39 the first day of the calendar year and end on the
40 last day of the calendar year or until successors are
41 appointed, except for the first appointed members who
42 shall serve through the last calendar day of the year

1 in which they are appointed, before commencing the
2 terms prescribed by this section.

3 Any member of the board may be removed from office
4 for cause by the Governor. A member may not serve
5 more than 2 full successive terms, provided that, for
6 this purpose only, a period actually served which ex-
7 ceeds 1/2 of the 3-year term shall be deemed a full
8 term.

9 3. Meetings. The board shall meet during the
10 first month of each calendar year to select a chair-
11 man and for other purposes. At least one additional
12 meeting shall be held before the end of each calendar
13 year. Other meetings may be convened at the call of
14 the chairman or the written request of any 2 board
15 members. A majority of the members of the board
16 shall constitute a quorum for all purposes. All
17 meetings of the board shall be open to the public,
18 except that the board may hold closed sessions for
19 license suspension, revocation or refusals to renew.

20 4. Compensation. Members of the board shall re-
21 ceive no compensation for their services, but shall
22 be entitled to reasonable travel and other expenses
23 incurred in the execution of their powers and duties.

24 §2274. Board of occupational therapy practice; pow-
25 ers and duties

26 1. Powers. The board shall administer and en-
27 force this chapter and evaluate the qualifications of
28 applicants for licensure. The board may issue sub-
29 poenas, examine witnesses, administer oaths and may
30 investigate or cause to be investigated any com-
31 plaints made to it or any cases of noncompliance with
32 or violation of this chapter.

33 2. Rules. The board may adopt, in accordance
34 with the Maine Administrative Procedure Act, Title 5,
35 chapter 375, rules relating to professional conduct
36 to carry out the policy of this chapter, including,
37 but not limited to, rules relating to professional
38 licensure and to the establishment of ethical stan-
39 dards of practice for persons holding a license to
40 practice occupational therapy in this State.

1 3. Hearings. Hearings may be conducted by the
2 board to assist with investigations, to determine
3 whether grounds exist for suspension, revocation or
4 denial of a license, or as otherwise deemed necessary
5 to the fulfillment of its responsibilities under this
6 chapter.

7 4. Records. The board shall keep such records
8 and minutes as are necessary to the ordinary dispatch
9 of its functions.

10 5. Contracts. The board may enter into contracts
11 to carry out its responsibilities under this chapter.

12 6. Reports. No later than August 1st of each
13 year, the board shall submit to the commissioner, for
14 the preceding fiscal year ending June 30th, its annu-
15 al report of its operations and financial position,
16 together with such comments and recommendations as
17 the commissioner deems essential.

18 §2275. Board of occupational therapy practice; ad-
19 ministrative provisions

20 1. Officers. The board shall appoint a secre-
21 tary and may appoint other officers as it deems nec-
22 essary.

23 2. Employees. With the advice of the board, the
24 commissioner may appoint, subject to the Personnel
25 Law, such employees as may be necessary to carry out
26 this chapter. Any person so employed shall be lo-
27 cated in the department and under the administrative
28 and supervisory direction of the commissioner.

29 3. Budget. The board shall submit to the com-
30 missioner its budgetary requirements in the same man-
31 ner as is provided in Title 5, section 1665.

32 §2276. License required

33 1. License required. No person may practice oc-
34 cupational therapy or hold himself out as an occupa-
35 tional therapist, or as being able to practice occu-
36 pational therapy or to render occupational therapy
37 services in this State, unless licensed under this
38 chapter.

1 2. Individual license. Only an individual may
2 be licensed under this chapter.

3 3. Penalty; injunction. A person who violates
4 any of the provisions of this chapter is guilty of a
5 Class E crime.

6 The State may bring an action in Superior Court
7 to enjoin any person from violating this chapter, re-
8 gardless of whether proceedings have been or may be
9 instituted in the Administrative Court or whether
10 criminal proceedings have been or may be instituted.

11 §2277. Persons and practices exempt

12 Nothing in this chapter may be construed as pre-
13 venting or restricting the practice, services or ac-
14 tivities of:

15 1. Licensed persons. Any person licensed in
16 this State by any other law from engaging in the pro-
17 fession or occupation for which he is licensed;

18 2. Students or trainees. Any person pursuing a
19 supervised course of study leading to a degree or
20 certificate in occupational therapy at an accredited
21 or approved educational program, if the person is
22 designated by a title which clearly indicates his
23 status as a student or trainee;

24 3. Supervised fieldworkers. Any person fulfill-
25 ing the supervised fieldwork experience requirements
26 of section 2279, subsection 4, if the experience con-
27 stitutes a part of the experience necessary to meet
28 the requirement of that subsection;

29 4. Associates; reciprocity. Any person perform-
30 ing occupational therapy services in the State, if
31 these services are performed for no more than 30 days
32 in a calendar year in association with an occupati-
33 onal therapist licensed under this chapter, if:

34 A. The person is licensed under the law of an-
35 other state which has licensure requirements
36 equivalent to the requirements of this chapter;
37 or

1 B. The person meets the requirements for certi-
2 fication as an Occupational Therapist Registered,
3 OTR, or a Certified Occupational Therapy Assist-
4 ant, COTA, established by the American Occupa-
5 tional Therapy Association; or

6 5. Occupational therapy aides. Any person em-
7 ployed as an occupational therapy aide.

8 §2278. Temporary license

9 A temporary license may be granted to a person
10 who has completed the education and experience re-
11 quirements of this chapter. This permit allows the
12 person to practice occupational therapy in associa-
13 tion with a licensed occupational therapist. This
14 permit is valid until the person is issued a license
15 under section 2281 or 2282, or until the results of
16 the national exam taken by the person are available
17 to the board. This limited permit may be renewed one
18 time if the person has failed the examination.

19 §2279. Requirements for licensure

20 An applicant applying for a license as an occupa-
21 tional therapist or as an occupational therapy as-
22 stant shall file a written application provided by
23 the board, showing to the satisfaction of the board
24 that he meets the following requirements.

25 1. Residence. An applicant need not be a resi-
26 dent of this State.

27 2. Character. An applicant shall have demon-
28 strated ethical practice.

29 3. Education. An applicant shall present evi-
30 dence satisfactory to the board of having successful-
31 ly completed the academic requirements of an educa-
32 tional program in occupational therapy recognized by
33 the board.

34 A. The occupational therapy educational program
35 shall be accredited by the Committee on Allied
36 Health Education and Accreditation of the Ameri-
37 can Medical Association in collaboration with the
38 American Occupational Therapy Association.

1 B. The occupational therapy assistant education-
2 al program shall be approved by the American Oc-
3 cupational Therapy Association.

4 4. Experience. An applicant shall submit to the
5 board evidence of having successfully completed a pe-
6 riod of supervised fieldwork experience arranged by
7 the recognized educational institution where he met
8 the academic requirements or by the nationally recog-
9 nized professional association.

10 A. For an occupational therapist, a minimum of 6
11 months of supervised fieldwork experience is re-
12 quired.

13 B. For an occupational therapy assistant, a min-
14 imum of 2 months of supervised fieldwork experi-
15 ence is required.

16 5. Examination. An applicant for licensure as
17 an occupational therapist or as an occupational
18 therapy assistant shall pass an examination as pro-
19 vided for in section 2280.

20 6. Licensure. An applicant may be licensed as
21 an occupational therapist if he has practiced as an
22 occupational therapy assistant for 4 years, has com-
23 pleted the requirements of subsection 4, paragraph A,
24 before January 1, 1988, and has passed the examina-
25 tion for occupational therapists.

26 §2280. Examination for licensure of occupational
27 therapists and occupational therapy assist-
28 ants

29 1. Fees. Only a person satisfying the require-
30 ments of section 2279, subsections 1, 2, 3 and 4, may
31 apply for examination in such a manner as the board
32 shall prescribe. The application shall be accompa-
33 nied by the nonrefundable fee prescribed by section
34 2285. A person who fails an examination may apply
35 for reexamination upon payment of the prescribed fee.

36 2. Content. Each applicant for licensure shall
37 be examined by written examination to test his knowl-
38 edge of the basic and clinical sciences relating to
39 occupational therapy, occupational therapy techniques

1 and methods and such other subjects as the board may
2 require to determine the applicant's fitness to prac-
3 tice. The board shall approve an examination for occu-
4 pational therapists and an examination for occupa-
5 tional therapy assistants and establish standards for
6 an acceptable performance.

7 3. Time and place. Applicants for licensure
8 shall be examined at a time and place and under such
9 supervision as the board may require. Examinations
10 shall be given at least twice each year at such
11 places as the board may determine. The board shall
12 give reasonable public notice of these examinations
13 in accordance with its rules.

14 4. Scores; review. Applicants may obtain their
15 examination scores and may review their papers in ac-
16 cordance with rules as the board may establish.

17 §2281. Waiver of requirements for licensure

18 The board shall grant a license to any person
19 who, prior to the effective date of this chapter, has
20 successfully completed an examination administered by
21 the Psychological Corporation under contract with the
22 American Occupational Therapy Association if he meets
23 the requirements of section 2279, subsections 1, 2, 3
24 and 4.

25 §2282. Issuance of license

26 The board shall issue a license to any person who
27 meets the requirements of this chapter upon payment
28 of the prescribed license fee.

29 §2283. Renewal of license

30 1. Biennial renewal. Any license issued under
31 this chapter shall be subject to biennial renewal and
32 shall expire, unless renewed in the manner prescribed
33 by the rules of the board, upon the payment of a re-
34 newal fee. Licenses may be renewed up to 90 days af-
35 ter the date of expiration upon payment of a late fee
36 of \$10 in addition to the renewal fee. Any person
37 who submits an application for renewal more than 90
38 days after the license renewal date shall be subject
39 to all requirements governing new applicants under

1 this chapter, except that the board may in its dis-
2 cretion, giving due consideration to the protection
3 of the public, waive examination if that renewal ap-
4 plication is made within 2 years from the date of
5 that expiration.

6 2. Inactive status. Upon request, the board
7 shall grant inactive status to a licensee who does
8 not practice as an occupational therapist or an occu-
9 pational therapy assistant, does not present himself
10 as an occupational therapist or an occupational
11 therapy assistant and maintains any continuing compe-
12 tency requirements established by the board.

13 3. Continue competency. Each license renewal
14 shall be accompanied with evidence of continuing
15 competencies.

16 §2284. Foreign trained applicants

17 Foreign trained occupational therapists and occu-
18 pational therapy assistants shall satisfy the exami-
19 nation requirements of section 2279. The board shall
20 require foreign trained applicants to furnish proof
21 of demonstrated ethical practice and completion of
22 educational and supervised fieldwork requirements
23 equivalent to those contained in section 2279 before
24 taking the examination.

25 §2285. Fees

26 1. Amount. Fees may be established by the board
27 in amounts which are reasonable and necessary for
28 their respective purposes. The fees may not exceed
29 the following amounts:

30 A. For an initial application, \$80;

31 B. For biennial renewal of a license, \$80; and

32 C. For a temporary license, \$25.

33 2. Disposal of fees. All fees received by the
34 board shall be paid to the Treasurer of State to be
35 used for carrying out this chapter. Any balance of
36 fees shall not lapse but shall be carried forward as
37 a continuing account to be expended for the same pur-
38 poses in the following fiscal years.

1 trative procedures being established by the Depart-
2 ment of Business, Occupational and Professional Regu-
3 lation. All the provisions of this new draft will
4 then be the same as for all other boards within the
5 department.

6 This new draft reflects suggestions by the de-
7 partment that came after the bill was printed.

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