

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

SECOND SPECIAL SESSION

November 18, 1983

AND AT THE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

AND AT THE

THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
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J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND ELEVENTH LEGISLATURE
JANUARY 4, 1984 TO APRIL 25, 1984

5. Storage and transfer. The Treasurer of State may agree with custodial banks and financial intermediaries, within or without this State, and the nominees of any of them, in connection with the establishment and maintenance by others of a central depository system for the storage of transferable certificates and the transfer of registered bonds. Any such custodial banks and financial intermediaries, and nominees, if qualified and acting as fiduciaries, may also serve as authenticating agents, transfer agents, registrars, paying or other agents of the Treasurer of State with respect to the same issue of registered bonds.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective April 12, 1984.

CHAPTER 746

S.P. 837 - L.D. 2243

AN ACT to License Occupational Therapists.

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

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

§8001. Department; agencies within department

There is created and established the Department of Business, Occupational and Professional Regulation, in this chapter referred to as the "department," to regulate financial institutions, insurance companies, commercial sports, grantors of consumer credit and to license and regulate professions and occupations. The department shall be composed of the following bureaus, boards and commissions:

Banking, Bureau of;

Consumer Credit Protection, Bureau of;

Insurance, Bureau of;

Athletic Commission, Maine;
Real Estate Commission;
Running Horse Racing Commission, State;
Arborist Examining Board;
Auctioneers Advisory Board;
Commercial Driver Education, Board of;
Electricians' Examining Board;
Foresters, State Board of Registration for Professional;
Funeral Service, State Board of;
Geologists and Soil Scientists, State Board of Certification for;
Hearing Aid Dealers and Fitters, Board of;
Manufactured Housing Board;
Occupational Therapy Practice, Board of;
Oil and Solid Fuel Board;
Physical Therapy, Board of Examiners in;
Plumbers' Examining Board;
Psychologists, State Board of Examiners of;
Social Worker Registration, State Board of;
Speech Pathology and Audiology, Board of Examiners on; and
Substance Abuse Counselors, Board of Registration of.

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

CHAPTER 32

OCCUPATIONAL THERAPISTS

§2271. Declaration of purpose

In order to safeguard the public health, safety and welfare, to protect the public from incompetent and unauthorized persons; to assure the highest de-

gree of professional conduct on the part of occupational therapists and occupational therapy assistants; and to assure the availability of occupational therapy services of high quality to persons in need of those services, it is the purpose of this chapter to provide for the regulation of persons offering occupational therapy services.

§2272. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Board. "Board" means the Board of Occupational Therapy Practice established under this chapter.

2. Commissioner. "Commissioner" means the Commissioner of Business, Occupational and Professional Regulation.

3. Department. "Department" means the Department of Business, Occupational and Professional Regulation.

4. Occupational therapist. "Occupational therapist" means a person licensed to practice occupational therapy under this chapter.

5. Occupational therapy. "Occupational therapy" means the evaluation, planning and implementation of a program of purposeful activities to develop or maintain adaptive skills necessary to achieve the maximal physical and mental functioning of the individual in his daily pursuits. The practice of "occupational therapy" includes, but is not limited to, evaluation and treatment of individuals whose abilities to cope with the tasks of living are threatened or impaired by developmental deficits, the aging process, learning disabilities, poverty and cultural differences, physical injury or disease, psychological and social disabilities or anticipated dysfunction, using:

A. Treatment techniques as task-oriented activities to prevent or correct physical or emotional deficits or to minimize the disabling effect of these deficits in the life of the individual;

B. Evaluation techniques as assessment of sensory motor abilities, assessment of the development of self-care activities and capacity for

independence, assessment of the physical capacity for prevocational and work tasks, assessment of play and leisure performance and appraisal of living areas for the handicapped; and

C. Specific occupational therapy techniques such as activities of daily living skills, the fabrication and application of splinting devices, sensory motor activities, the use of specifically designed manual and creative activities, guidance in the selection and use of adaptive equipment, specific exercises to enhance functional performance and treatment techniques for physical capabilities for work activities.

The techniques are applied in the treatment of individual patients or clients, in groups or through social systems.

6. Occupational therapy aide. "Occupational therapy aide" means a person who assists in the practice of occupational therapy under the direct on-site supervision of an occupational therapist or occupational therapy assistant and whose activities require an understanding of occupational therapy, but do not require professional or advanced training in the basic anatomical, biological, psychological and social sciences involved in the practice of occupational therapy.

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

8. Person. "Person" means any individual, partnership, unincorporated organization or corporation.

§2273. Board of Occupational Therapy Practice; establishment; compensation

1. Establishment and membership. There is established within the Department of Business, Occupational and Professional Regulation, a Board of Occupational Therapy Practice. The board shall consist of 5 members appointed by the Governor. The persons appointed to the board, other than the public member, must have been engaged in rendering occupational therapy services to the public, teaching or research in occupational therapy for at least 2 years immediately preceding their appointments. At least 3 board members shall be occupational therapists. The 4th member shall be either an occupational therapist or

an occupational therapy assistant, if available. These members shall at all times be holders of valid licenses for the practice of occupational therapy in the State, except for the members of the first board, all of whom shall fulfill the requirements for licensure of this chapter. The remaining member shall be a representative of the public.

2. Terms of appointment. The Governor, within 60 days following the effective date of this chapter, shall appoint 2 board members for a term of one year, 2 for a term of 2 years and one for a term of 3 years. Appointments made thereafter shall be for 3-year terms, but no person may be appointed to serve more than 2 consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed by this section.

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

3. Meetings. The board shall meet during the first month of each calendar year to select a chairman and for other purposes. At least one additional meeting shall be held before the end of each calendar year. Other meetings may be convened at the call of the chairman or the written request of any 2 board members. A majority of the members of the board shall constitute a quorum for all purposes.

4. Compensation. Members of the board shall receive no compensation for their services, but shall be entitled to expenses on the same basis as provided for state employees.

§2274. Board of occupational therapy practice; powers and duties

1. Powers. The board shall administer and enforce this chapter and evaluate the qualifications of applicants for licensure. The board may issue subpoenas, examine witnesses, administer oaths and may investigate or cause to be investigated any complaints made to it or any cases of noncompliance with or violation of this chapter.

2. Rules. The board may adopt, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, rules relating to professional conduct to carry out the policy of this chapter, including, but not limited to, rules relating to professional licensure and to the establishment of ethical standards of practice for persons holding a license to practice occupational therapy in this State.

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

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

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

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

§2275. Board of occupational therapy practice; administrative provisions

1. Officers. The board shall appoint a secretary and may appoint other officers as it deems necessary.

2. Employees. With the advice of the board, the commissioner may appoint, subject to the Personnel Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the department and under the administrative and supervisory direction of the commissioner.

3. Budget. The board shall submit to the commissioner its budgetary requirements in the same manner as is provided in Title 5, section 1665.

§2276. License required

1. License required. No person may practice, or hold himself out as authorized to practice, as an occupational therapist in this State or use the words

"occupational therapist" or the letters "O.T." or other words or letters to indicate that the person using the words or letters is a licensed occupational therapist, unless he is licensed in accordance with this chapter.

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

3. Penalty; injunction. A person who violates the provisions of this section or any lawful order or rule of the board is guilty of a Class E crime.

The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

§2277. Persons and practices exempt:

Nothing in this chapter may be construed as preventing or restricting the practice, services or activities of:

1. Licensed persons. Any person licensed in this State by any other law from engaging in the profession or occupation for which he is licensed;

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

3. Supervised fieldworkers. Any person fulfilling the supervised fieldwork experience requirements of section 2279, subsection 4, if the experience constitutes a part of the experience necessary to meet the requirement of that subsection;

4. Associates; reciprocity. Any person performing occupational therapy services in the State, if these services are performed for no more than 30 days in a calendar year in association with an occupational therapist licensed under this chapter, if:

A. The person is licensed under the law of another state which has licensure requirements equivalent to the requirements of this chapter;
or

B. The person meets the requirements for certification as an Occupational Therapist Registered, OTR, or a Certified Occupational Therapy Assistant, COTA, established by the American Occupational Therapy Association; or

5. Occupational therapy aides. Any person employed as an occupational therapy aide.

§2278. Temporary license

A temporary license may be granted to a person who has completed the education and experience requirements of this chapter. This permit allows the person to practice occupational therapy in association with a licensed occupational therapist. This permit is valid until the person is issued a license under section 2281 or 2282, or until the results of the national exam taken by the person are available to the board. This limited permit may be renewed one time if the person has failed the examination.

§2279. Requirements for licensure

An applicant applying for a license as an occupational therapist or as an occupational therapy assistant shall file a written application provided by the board, showing to the satisfaction of the board that he meets the following requirements.

1. Residence. An applicant need not be a resident of this State.

2. Character. An applicant shall have demonstrated ethical practice.

3. Education. An applicant shall present evidence satisfactory to the board of having successfully completed the academic requirements of an educational program in occupational therapy recognized by the board.

A. The occupational therapy educational program shall be accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association in collaboration with the American Occupational Therapy Association.

B. The occupational therapy assistant educational program shall be approved by the American Occupational Therapy Association.

4. Experience. An applicant shall submit to the board evidence of having successfully completed a period of supervised fieldwork experience arranged by the recognized educational institution where he met the academic requirements or by the nationally recognized professional association.

A. For an occupational therapist, a minimum of 6 months of supervised fieldwork experience is required.

B. For an occupational therapy assistant, a minimum of 2 months of supervised fieldwork experience is required.

5. Examination. An applicant for licensure as an occupational therapist or as an occupational therapy assistant shall pass an examination as provided for in section 2280.

6. Licensure. An applicant may be licensed as an occupational therapist if he has practiced as an occupational therapy assistant for 4 years, has completed the requirements of subsection 4, paragraph A, before January 1, 1988, and has passed the examination for occupational therapists.

§2280. Examination for licensure of occupational therapists and occupational therapy assistants

1. Fees. Only a person satisfying the requirements of section 2279, subsections 1, 2, 3 and 4, may apply for examination in such a manner as the board shall prescribe. The application shall be accompanied by the nonrefundable fee prescribed by section 2285. A person who fails an examination may apply for reexamination upon payment of the prescribed fee.

2. Content. Each applicant for licensure shall be examined by written examination to test his knowledge of the basic and clinical sciences relating to occupational therapy, occupational therapy techniques and methods and such other subjects as the board may require to determine the applicant's fitness to practice. The board shall approve an examination for occupational therapists and an examination for occupational therapy assistants and establish standards for an acceptable performance.

3. Time and place. Applicants for licensure shall be examined at a time and place and under such supervision as the board may require. Examinations shall be given at least twice each year at such

places as the board may determine. The board shall give reasonable public notice of these examinations in accordance with its rules.

4. Scores; review. Applicants may obtain their examination scores and may review their papers in accordance with rules as the board may establish.

§2281. Waiver of requirements for licensure

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

§2282. Issuance of license

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

§2283. Renewal of license

1. Biennial renewal. Any license issued under this chapter shall be subject to biennial renewal and shall expire, unless renewed in the manner prescribed by the rules of the board, upon the payment of a renewal fee. Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license renewal date shall be subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if that renewal application is made within 2 years from the date of that expiration.

2. Inactive status. Upon request, the board shall grant inactive status to a licensee who does not practice as an occupational therapist or an occupational therapy assistant, does not present himself as an occupational therapist or an occupational therapy assistant and maintains any continuing competency requirements established by the board.

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

§2284. Foreign trained applicants

Foreign trained occupational therapists and occupational therapy assistants shall satisfy the examination requirements of section 2279. The board shall require foreign trained applicants to furnish proof of demonstrated ethical practice and completion of educational and supervised fieldwork requirements equivalent to those contained in section 2279 before taking the examination.

§2285. Fees

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

- A. For an initial application, \$80;
- B. For biennial renewal of a license, \$80; and
- C. For a temporary license, \$25.

2. Disposal of fees. All fees received by the board shall be paid to the Treasurer of State to be used for carrying out this chapter. Any balance of fees shall not lapse but shall be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

§2286. Disciplinary actions

1. Complaints. The board may order an investigation of a complaint on its own motion or on written complaint filed with the board regarding noncompliance with or violation of any section of this chapter or of any rules adopted by the board.

2. Disciplinary actions; grounds. The board may suspend or revoke a license pursuant to Title 5, section 10004. The board may refuse to renew or the Administrative Court may revoke, suspend or refuse to renew any license issued under this chapter or any rule or order of the board. The following shall be grounds for an action to refuse to issue, modify, suspend, revoke or refuse to renew the license of a person under this chapter:

- A. The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued;

B. Unprofessional conduct. A licensee shall be deemed to have engaged in unprofessional conduct if he violates any standard of professional behavior which has been established in the practice for which the licensee is licensed;

C. Subject to the limitations of Title 5, chapter 341, conviction of a crime which involves dishonesty or false statement or which relates directly to the practice for which the licensee is licensed or conviction of any crime for which imprisonment for one year or more may be imposed; or

D. Any violation of this chapter or rules adopted by the board.

3. Reinstatement. An application for reinstatement may be made to the board one year from the date of revocation of a license. The board may accept or reject an application for reinstatement and hold a hearing to consider the reinstatement.

Effective July 25, 1984.

CHAPTER 747

H.P. 1741 - L.D. 2295

AN ACT to Establish a Poultry Disease Control Fund.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the poultry industry of Maine makes a major contribution to the total economy of the State; and

Whereas, recent outbreaks of avian influenza, a highly pathogenic and deadly disease of poultry, has occurred in Maryland, New Jersey, Pennsylvania and Virginia where all flocks have been quarantined and infected flocks eradicated; and

Whereas, this disease is spread by persons, vehicles and other materials related to the poultry industry and thereby threatens the commercial industry in the State; and