

S. 2935--B

A. 4519--B

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

February 3, 2011

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IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. CANESTRARI, GUNTHER -- read once and referred to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to mandatory continuing competency requirements for occupational therapists and occupational therapy assistants

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The education law is amended by adding a new section 7908  
2     to read as follows:  
3     S 7908. MANDATORY CONTINUING COMPETENCY. (1)(A) EACH LICENSED OCCUPA-  
4     TIONAL THERAPIST AND OCCUPATIONAL THERAPY ASSISTANT REQUIRED UNDER THIS  
5     ARTICLE TO REGISTER TRIENNIALY WITH THE DEPARTMENT TO PRACTICE IN THE  
6     STATE SHALL COMPLY WITH THE PROVISIONS OF THE MANDATORY CONTINUING  
7     COMPETENCY REQUIREMENTS PRESCRIBED IN SUBDIVISION TWO OF THIS SECTION,  
8     EXCEPT AS PROVIDED IN PARAGRAPHS (B) AND (C) OF THIS SUBDIVISION. OCCU-  
9     PATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS WHO DO NOT  
10    SATISFY THE MANDATORY CONTINUING COMPETENCY REQUIREMENTS SHALL NOT BE

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 AUTHORIZED TO PRACTICE UNTIL THEY HAVE MET SUCH REQUIREMENTS, AND THEY  
2 HAVE BEEN ISSUED A REGISTRATION CERTIFICATE, EXCEPT THAT AN OCCUPATIONAL  
3 THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT MAY PRACTICE WITHOUT HAVING  
4 MET SUCH REQUIREMENTS IF HE OR SHE IS ISSUED A CONDITIONAL REGISTRATION  
5 PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

6 (B) OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS SHALL  
7 BE EXEMPT FROM THE MANDATORY CONTINUING COMPETENCY REQUIREMENT FOR THE  
8 TRIENNIAL REGISTRATION PERIOD DURING WHICH THEY ARE FIRST LICENSED.  
9 ADJUSTMENT TO THE MANDATORY CONTINUING COMPETENCY REQUIREMENTS MAY BE  
10 GRANTED BY THE DEPARTMENT FOR REASONS OF HEALTH OF THE LICENSEE WHERE  
11 CERTIFIED BY AN APPROPRIATE HEALTH CARE PROFESSIONAL, FOR EXTENDED  
12 ACTIVE DUTY WITH THE ARMED FORCES OF THE UNITED STATES, OR FOR OTHER  
13 GOOD CAUSE ACCEPTABLE TO THE DEPARTMENT WHICH MAY PREVENT COMPLIANCE.

14 (C) A LICENSED OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSIST-  
15 ANT NOT ENGAGED IN PRACTICE, AS DETERMINED BY THE DEPARTMENT, SHALL BE  
16 EXEMPT FROM THE MANDATORY CONTINUING COMPETENCY REQUIREMENT UPON THE  
17 FILING OF A STATEMENT WITH THE DEPARTMENT DECLARING SUCH STATUS. ANY  
18 LICENSEE WHO RETURNS TO THE PRACTICE OF OCCUPATIONAL THERAPY DURING THE  
19 TRIENNIAL REGISTRATION PERIOD SHALL NOTIFY THE DEPARTMENT PRIOR TO REEN-  
20 TERING THE PROFESSION AND SHALL MEET SUCH MANDATORY CONTINUING COMPETEN-  
21 CY REQUIREMENTS AS SHALL BE PRESCRIBED BY REGULATIONS OF THE COMMISSION-  
22 ER.

23 (2) (A) DURING EACH TRIENNIAL REGISTRATION PERIOD AN APPLICANT FOR  
24 REGISTRATION AS AN OCCUPATIONAL THERAPIST SHALL COMPLETE A MINIMUM OF  
25 THIRTY-SIX HOURS OF LEARNING ACTIVITIES WHICH CONTRIBUTE TO CONTINUING  
26 COMPETENCE, AS SPECIFIED IN SUBDIVISION FOUR OF THIS SECTION, PROVIDED  
27 FURTHER THAT AT LEAST TWENTY-FOUR HOURS SHALL BE IN AREAS OF STUDY  
28 PERTINENT TO THE SCOPE OF PRACTICE OF OCCUPATIONAL THERAPY. WITH THE  
29 EXCEPTION OF CONTINUING EDUCATION HOURS TAKEN DURING THE REGISTRATION  
30 PERIOD IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THIS SECTION, CONTIN-  
31 UING EDUCATION HOURS TAKEN DURING ONE TRIENNIUM MAY NOT BE TRANSFERRED  
32 TO A SUBSEQUENT TRIENNIUM.

33 (B) DURING EACH TRIENNIAL REGISTRATION PERIOD AN APPLICANT FOR REGIS-  
34 TRATION AS AN OCCUPATIONAL THERAPY ASSISTANT SHALL COMPLETE A MINIMUM OF  
35 THIRTY-SIX HOURS OF LEARNING ACTIVITIES WHICH CONTRIBUTE TO CONTINUING  
36 COMPETENCE AS SPECIFIED IN SUBDIVISION FOUR OF THIS SECTION, PROVIDED  
37 FURTHER THAT AT LEAST TWENTY-FOUR HOURS SHALL BE IN RECOGNIZED AREAS OF  
38 STUDY PERTINENT TO THE LICENSEE'S PROFESSIONAL SCOPE OF PRACTICE OF  
39 OCCUPATIONAL THERAPY. WITH THE EXCEPTION OF CONTINUING EDUCATION HOURS  
40 TAKEN DURING THE REGISTRATION PERIOD IMMEDIATELY PRECEDING THE EFFECTIVE  
41 DATE OF THIS SECTION, CONTINUING EDUCATION HOURS TAKEN DURING ONE TRIEN-  
42 NIUM MAY NOT BE TRANSFERRED TO A SUBSEQUENT TRIENNIUM.

43 (C) ANY OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT WHOSE  
44 FIRST REGISTRATION DATE FOLLOWING THE EFFECTIVE DATE OF THIS SECTION  
45 OCCURS LESS THAN THREE YEARS FROM SUCH EFFECTIVE DATE BUT ON OR AFTER  
46 JANUARY FIRST, TWO THOUSAND THIRTEEN, SHALL COMPLETE CONTINUING COMPE-  
47 TENCY HOURS ON A PRORATED BASIS AT THE RATE OF ONE-HALF HOUR PER MONTH  
48 FOR THE PERIOD BEGINNING JANUARY FIRST, TWO THOUSAND THIRTEEN UP TO THE  
49 FIRST REGISTRATION DATE.

50 (D) THEREAFTER, A LICENSEE WHO HAS NOT SATISFIED THE MANDATORY CONTIN-  
51 UING COMPETENCY REQUIREMENTS SHALL NOT BE ISSUED A TRIENNIAL REGISTRA-  
52 TION CERTIFICATE BY THE DEPARTMENT AND SHALL NOT PRACTICE UNLESS AND  
53 UNTIL A CONDITIONAL REGISTRATION CERTIFICATE IS ISSUED AS PROVIDED FOR  
54 IN SUBDIVISION THREE OF THIS SECTION.

55 (3) THE DEPARTMENT, IN ITS DISCRETION, MAY ISSUE A CONDITIONAL REGIS-  
56 TRATION TO A LICENSEE WHO FAILS TO MEET THE CONTINUING COMPETENCY

1 REQUIREMENTS ESTABLISHED IN SUBDIVISION TWO OF THIS SECTION, BUT WHO  
2 AGREES TO MAKE UP ANY DEFICIENCIES AND COMPLETE ANY ADDITIONAL LEARNING  
3 ACTIVITIES WHICH THE DEPARTMENT MAY REQUIRE. THE FEE FOR SUCH A CONDI-  
4 TIONAL REGISTRATION SHALL BE THE SAME AS, AND IN ADDITION TO, THE FEE  
5 FOR THE TRIENNIAL REGISTRATION. THE DURATION OF SUCH CONDITIONAL REGIS-  
6 TRATION SHALL BE DETERMINED BY THE DEPARTMENT BUT SHALL NOT EXCEED ONE  
7 YEAR. ANY LICENSEE WHO IS NOTIFIED OF THE DENIAL OF REGISTRATION FOR  
8 FAILURE TO SUBMIT EVIDENCE, SATISFACTORY TO THE DEPARTMENT, OF REQUIRED  
9 CONTINUING COMPETENCY LEARNING ACTIVITIES AND WHO PRACTICES WITHOUT SUCH  
10 REGISTRATION, MAY BE SUBJECT TO DISCIPLINARY PROCEEDINGS PURSUANT TO  
11 SECTION SIXTY-FIVE HUNDRED TEN OF THIS TITLE.

12 (4) AS USED IN SUBDIVISION TWO OF THIS SECTION, "ACCEPTABLE LEARNING  
13 ACTIVITIES" SHALL MEAN ACTIVITIES WHICH CONTRIBUTE TO PROFESSIONAL PRAC-  
14 TICE IN OCCUPATIONAL THERAPY, AND WHICH MEET THE STANDARDS PRESCRIBED IN  
15 THE REGULATIONS OF THE COMMISSIONER. SUCH LEARNING ACTIVITIES SHALL  
16 INCLUDE, BUT NOT BE LIMITED TO, COLLEGIATE LEVEL CREDIT AND NON-CREDIT  
17 COURSES, SELF-STUDY ACTIVITIES, INDEPENDENT STUDY, FORMAL MENTORING  
18 ACTIVITIES, PUBLICATIONS IN PROFESSIONAL JOURNALS, PROFESSIONAL DEVELOP-  
19 MENT PROGRAMS AND TECHNICAL SESSIONS; SUCH LEARNING ACTIVITIES MAY BE  
20 OFFERED AND SPONSORED BY NATIONAL, STATE AND LOCAL PROFESSIONAL ASSOCI-  
21 ATIONS AND OTHER ORGANIZATIONS OR PARTIES ACCEPTABLE TO THE DEPARTMENT,  
22 AND ANY OTHER ORGANIZED EDUCATIONAL AND TECHNICAL LEARNING ACTIVITIES  
23 ACCEPTABLE TO THE DEPARTMENT. THE DEPARTMENT MAY, IN ITS DISCRETION AND  
24 AS NEEDED TO CONTRIBUTE TO THE HEALTH AND WELFARE OF THE PUBLIC, REQUIRE  
25 THE COMPLETION OF CONTINUING COMPETENCY LEARNING ACTIVITIES IN SPECIFIC  
26 SUBJECTS TO FULFILL THIS MANDATORY CONTINUING COMPETENCY REQUIREMENT.  
27 LEARNING ACTIVITIES MUST BE TAKEN FROM A SPONSOR APPROVED BY THE DEPART-  
28 MENT, PURSUANT TO THE REGULATIONS OF THE COMMISSIONER.

29 (5) OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS SHALL  
30 MAINTAIN ADEQUATE DOCUMENTATION OF COMPLETION OF (A) A LEARNING PLAN  
31 THAT SHALL RECORD CURRENT AND ANTICIPATED ROLES AND RESPONSIBILITIES BUT  
32 SHALL NOT REQUIRE THE RECORDS OF PEER REVIEW OR SELF-ASSESSMENT OF  
33 COMPETENCIES, AND (B) ACCEPTABLE CONTINUING COMPETENCY LEARNING ACTIV-  
34 ITIES AND SHALL PROVIDE SUCH DOCUMENTATION AT THE REQUEST OF THE DEPART-  
35 MENT. FAILURE TO PROVIDE SUCH DOCUMENTATION UPON REQUEST OF THE DEPART-  
36 MENT SHALL BE AN ACT OF MISCONDUCT SUBJECT TO THE DISCIPLINARY  
37 PROCEEDINGS PURSUANT TO SECTION SIXTY-FIVE HUNDRED TEN OF THIS TITLE.

38 (6) THE MANDATORY CONTINUING COMPETENCY FEE SHALL BE FORTY-FIVE  
39 DOLLARS FOR OCCUPATIONAL THERAPISTS AND TWENTY-FIVE DOLLARS FOR OCCUPA-  
40 TIONAL THERAPY ASSISTANTS, SHALL BE PAYABLE ON OR BEFORE THE FIRST DAY  
41 OF EACH TRIENNIAL REGISTRATION PERIOD, AND SHALL BE PAID IN ADDITION TO  
42 THE TRIENNIAL REGISTRATION FEE REQUIRED BY SECTION SEVENTY-NINE HUNDRED  
43 FOUR OF THIS ARTICLE.

44 (7) SPONSORS SEEKING TO OFFER LEARNING ACTIVITIES PURSUANT TO SUBDIVI-  
45 SION FOUR OF THIS SECTION SHALL SUBMIT AN APPLICATION FEE OF NINE  
46 HUNDRED DOLLARS WITH ITS APPLICATION FOR THE ISSUANCE OF A THREE-YEAR  
47 PERMIT FROM THE DEPARTMENT TO BECOME AN APPROVED SPONSOR. APPLICATION  
48 FOR A THREE-YEAR RENEWAL OF THE PERMIT SHALL BE ACCOMPANIED BY A FEE OF  
49 NINE HUNDRED DOLLARS.

50 S 2. This act shall take effect on the one hundred eightieth day after  
51 it shall have become a law; provided, however, the commissioner of  
52 education and the board of regents are authorized, prior to such effec-  
53 tive date, to promulgate such rules and regulations as may be necessary  
54 for the timely implementation of this act.