

S T A T E O F N E W Y O R K

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

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.