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

S. 2935 A. 4519

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

IN ASSEMBLY -- Introduced by M. of A. CANESTRARI -- read once and referred to the Committee on Higher Education

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:

Section 1. The education law is amended by adding a new section 7908 to read as follows:

S 7908. MANDATORY CONTINUING COMPETENCY. (1)(A) EACH LICENSED OCCUPATIONAL THERAPIST AND OCCUPATIONAL THERAPY ASSISTANT REQUIRED UNDER THIS ARTICLE TO REGISTER TRIENNIALLY WITH THE DEPARTMENT TO PRACTICE IN THE STATE SHALL COMPLY WITH THE PROVISIONS OF THE MANDATORY CONTINUING COMPETENCY REQUIREMENTS PRESCRIBED IN SUBDIVISION TWO OF THIS SECTION, EXCEPT AS PROVIDED IN PARAGRAPHS (B) AND (C) OF THIS SUBDIVISION. OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS WHO DO NOT SATISFY THE MANDATORY CONTINUING COMPETENCY REQUIREMENTS SHALL NOT BE AUTHORIZED TO PRACTICE UNTIL THEY HAVE MET SUCH REQUIREMENTS, AND THEY HAVE BEEN ISSUED A REGISTRATION CERTIFICATE, EXCEPT THAT AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT MAY PRACTICE WITHOUT HAVING MET SUCH REQUIREMENTS IF HE OR SHE IS ISSUED A CONDITIONAL REGISTRATION PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

(B) ADJUSTMENT TO THE MANDATORY CONTINUING COMPETENCY REQUIREMENTS MAY BE GRANTED BY THE DEPARTMENT FOR REASONS OF HEALTH OF THE LICENSEE WHERE CERTIFIED BY AN APPROPRIATE HEALTH CARE PROFESSIONAL, FOR EXTENDED ACTIVE DUTY WITH THE ARMED FORCES OF THE UNITED STATES, OR FOR OTHER GOOD CAUSE ACCEPTABLE TO THE DEPARTMENT WHICH MAY PREVENT COMPLIANCE.

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

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(C) A LICENSED OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT NOT ENGAGED IN PRACTICE, AS DETERMINED BY THE DEPARTMENT, SHALL BE EXEMPT FROM THE MANDATORY CONTINUING COMPETENCY REQUIREMENT UPON THE FILING OF A STATEMENT WITH THE DEPARTMENT DECLARING SUCH STATUS. ANY LICENSEE WHO RETURNS TO THE PRACTICE OF OCCUPATIONAL THERAPY DURING THE TRIENNIAL REGISTRATION PERIOD SHALL NOTIFY THE DEPARTMENT PRIOR TO REENTERING THE PROFESSION AND SHALL MEET SUCH MANDATORY CONTINUING COMPETENCY REQUIREMENTS AS SHALL BE PRESCRIBED BY REGULATIONS OF THE COMMISSIONER.

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

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

(C) ANY OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT WHOSE FIRST REGISTRATION DATE FOLLOWING THE EFFECTIVE DATE OF THIS SECTION OCCURS LESS THAN THREE YEARS FROM SUCH EFFECTIVE DATE, SHALL COMPLETE CONTINUING COMPETENCY HOURS ON A PRORATED BASIS AT THE RATE OF ONE-HALF HOUR PER MONTH FOR THE PERIOD BEGINNING JANUARY FIRST, TWO THOUSAND TWELVE UP TO THE FIRST REGISTRATION DATE.

(D) ANY OCCUPATIONAL THERAPY ASSISTANT WHOSE FIRST REGISTRATION DATE FOLLOWING THE EFFECTIVE DATE OF THIS SECTION OCCURS LESS THAN THREE YEARS FROM SUCH EFFECTIVE DATE, SHALL COMPLETE CONTINUING COMPETENCY HOURS ON A PRORATED BASIS AT THE RATE OF ONE-QUARTER HOUR PER MONTH FOR THE PERIOD BEGINNING JANUARY FIRST, TWO THOUSAND TWELVE UP TO THE FIRST REGISTRATION DATE.

(E) THEREAFTER, A LICENSEE WHO HAS NOT SATISFIED THE MANDATORY CONTINUING COMPETENCY REQUIREMENTS SHALL NOT BE ISSUED A TRIENNIAL REGISTRATION CERTIFICATE BY THE DEPARTMENT AND SHALL NOT PRACTICE UNLESS AND UNTIL A CONDITIONAL REGISTRATION CERTIFICATE IS ISSUED AS PROVIDED FOR IN SUBDIVISION THREE OF THIS SECTION.

(3) THE DEPARTMENT, IN ITS DISCRETION, MAY ISSUE A CONDITIONAL REGISTRATION TO A LICENSEE WHO FAILS TO MEET THE CONTINUING COMPETENCY REQUIREMENTS ESTABLISHED IN SUBDIVISION TWO OF THIS SECTION, BUT WHO AGREES TO MAKE UP ANY DEFICIENCIES AND COMPLETE ANY ADDITIONAL LEARNING ACTIVITIES WHICH THE DEPARTMENT MAY REQUIRE. THE FEE FOR SUCH A CONDITIONAL REGISTRATION SHALL BE THE SAME AS, AND IN ADDITION TO, THE FEE FOR THE TRIENNIAL REGISTRATION. THE DURATION OF SUCH CONDITIONAL REGISTRATION SHALL BE DETERMINED BY THE DEPARTMENT BUT SHALL NOT EXCEED ONE YEAR. ANY LICENSEE WHO IS NOTIFIED OF THE DENIAL OF REGISTRATION FOR FAILURE TO SUBMIT EVIDENCE, SATISFACTORY TO THE DEPARTMENT, OF REQUIRED

CONTINUING COMPETENCY LEARNING ACTIVITIES AND WHO PRACTICES WITHOUT SUCH REGISTRATION, MAY BE SUBJECT TO DISCIPLINARY PROCEEDINGS PURSUANT TO SECTION SIXTY-FIVE HUNDRED TEN OF THIS TITLE.

(4) AS USED IN SUBDIVISION TWO OF THIS SECTION, "ACCEPTABLE LEARNING ACTIVITIES" SHALL MEAN ACTIVITIES WHICH CONTRIBUTE TO PROFESSIONAL PRACTICE IN OCCUPATIONAL THERAPY, AND WHICH MEET THE STANDARDS PRESCRIBED IN THE REGULATIONS OF THE COMMISSIONER. SUCH LEARNING ACTIVITIES SHALL INCLUDE, BUT NOT BE LIMITED TO, COLLEGIATE LEVEL CREDIT AND NON-CREDIT COURSES, SELF-STUDY ACTIVITIES, INDEPENDENT STUDY, FORMAL MENTORING ACTIVITIES, PUBLICATIONS IN PROFESSIONAL JOURNALS, PROFESSIONAL DEVELOPMENT PROGRAMS AND TECHNICAL SESSIONS; SUCH LEARNING ACTIVITIES MAY BE OFFERED AND SPONSORED BY NATIONAL, STATE AND LOCAL PROFESSIONAL ASSOCIATIONS AND OTHER ORGANIZATIONS OR PARTIES ACCEPTABLE TO THE DEPARTMENT, AND ANY OTHER ORGANIZED EDUCATIONAL AND TECHNICAL LEARNING ACTIVITIES ACCEPTABLE TO THE DEPARTMENT. THE DEPARTMENT MAY, IN ITS DISCRETION AND AS NEEDED TO CONTRIBUTE TO THE HEALTH AND WELFARE OF THE PUBLIC, REQUIRE THE COMPLETION OF CONTINUING COMPETENCY LEARNING ACTIVITIES IN SPECIFIC SUBJECTS TO FULFILL THIS MANDATORY CONTINUING COMPETENCY REQUIREMENT. LEARNING ACTIVITIES MUST BE TAKEN FROM A SPONSOR APPROVED BY THE DEPARTMENT, PURSUANT TO THE REGULATIONS OF THE COMMISSIONER.

(5) OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS SHALL MAINTAIN ADEQUATE DOCUMENTATION OF COMPLETION OF (A) A LEARNING PLAN THAT SHALL RECORD CURRENT AND ANTICIPATED ROLES AND RESPONSIBILITIES BUT SHALL NOT REQUIRE THE RECORDS OF PEER REVIEW OR SELF-ASSESSMENT OF COMPETENCIES, AND (B) ACCEPTABLE CONTINUING COMPETENCY LEARNING ACTIVITIES AND SHALL PROVIDE SUCH DOCUMENTATION AT THE REQUEST OF THE DEPARTMENT.

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

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