

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **House Bill 2983**

BY DELEGATES KESSINGER, HAYNES AND FAST

[Introduced March 08, 2021; Referred to the  
Committee on Health and Human Resources]

1 A BILL to amend and reenact §30-28-4 of the Code of West Virginia, 1931, as amended, relating  
 2 to permitting a licensed occupational therapy assistant to work as a staff member of the  
 3 Intellectual Developmental Disabilities Waiver (IDDW) Program when working under the  
 4 supervision of licensed occupational therapist.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 28. WEST VIRGINIA OCCUPATIONAL THERAPY PRACTICE ACT.**

**§30-28-4. Scope of practice; license and supervision requirements.**

- 1 (a) The scope of practice of occupational therapy includes, but is not limited to:
- 2 (1) Methods or strategies selected to direct the process of interventions such as:
- 3 (A) Establishment, remediation, or restoration of a skill or ability that has not yet developed
- 4 or is impaired;
- 5 (B) Compensation, modification, or adaptation of activity or environment to enhance
- 6 performance;
- 7 (C) Maintenance and enhancement of capabilities without which performance in everyday
- 8 life activities would decline;
- 9 (D) Health promotion and wellness to enable or enhance performance in everyday life
- 10 activities; and
- 11 (E) Prevention of barriers to performance, including disability prevention.
- 12 (2) Evaluation of factors affecting activities of daily living (ADL), instrumental activities of
- 13 daily living (IADL), education, work, play, leisure, and social participation, including:
- 14 (A) Client factors, including body functions and body structures;
- 15 (B) Habits, routines, roles, and behavior patterns;
- 16 (C) Cultural, physical, environmental, social, and spiritual contexts and activity that affect
- 17 performance; and
- 18 (D) Performance skills, including motor, process, and communication/interaction skills.
- 19 (3) Interventions and procedures to promote or enhance safety and performance in

20 activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play,  
21 leisure, and social participation, including:

22 (A) Therapeutic use of occupations and preparatory, adjunctive, and functional activities;

23 (B) Training in self-care, self-management home management and community/work  
24 reintegration;

25 (C) Development, remediation, or compensation of physical, cognitive, neuromuscular,  
26 sensory functions, visual, vestibular, and behavioral skills;

27 (D) Therapeutic use of self, including one's personality, insights, perceptions, and  
28 judgments, as part of the therapeutic process;

29 (E) Education and training of individuals, including family members, care givers and  
30 others;

31 (F) Care coordination, case management and transition services;

32 (G) Consultative services to groups, programs, organizations, or communities;

33 (H) Modification of environments (home, work, school, or community) and adaptation of  
34 processes, including the application of ergonomic principles;

35 (I) Assessment, design, fabrication, application, fitting and training in assistive technology,  
36 adaptive devices, orthotic devices, and training in the use of prosthetic devices to enhance  
37 occupational performance;

38 (J) Assessment, recommendation, and training in techniques to enhance functional  
39 mobility, including wheelchair management;

40 (K) Community mobility and reentry;

41 (L) Management of feeding, eating, and swallowing to enable eating and feeding  
42 performance; and

43 (M) Application of physical agent modalities, and use of a range of specific therapeutic  
44 procedures and techniques to enhance occupational performance skills. Use of physical agent  
45 modalities by occupational therapy assistants must be consistent with their education (e.g.

46 superficial thermal and mechanical modalities) and used under the general supervision of an  
47 occupational therapist. The use of deep thermal or electrical modalities may only be performed  
48 by the occupational therapy assistant under the direct supervision of an occupational therapist,  
49 until the board shall promulgate rules as well as establish competency standards for the use of  
50 the modalities.

51 (b) No person may engage in the practice of occupational therapy or present herself or  
52 himself as an occupational therapist or occupational therapy assistant in this state, or use the  
53 words "occupational therapist," "licensed occupational therapist," "occupational therapist  
54 registered," "occupational therapy assistant," "licensed occupational therapy assistant," "certified  
55 occupational therapy assistant," or "occupational therapy aide," or the letters "O.T.," "L.O.T.,"  
56 "O.T.R.," "O.T.A.," "L.O.T.A.," "C.O.T.A.," or any other words, letters, abbreviations or insignia  
57 indicating or implying that he or she is an occupational therapist or occupational therapy assistant,  
58 unless he or she holds a valid, current license issued in accordance with the provisions of this  
59 article, which has not expired, been suspended or revoked.

60 (c) No business entity may advertise or otherwise offer to provide or convey the impression  
61 that it is providing occupational therapy unless an individual holding a current valid license or  
62 permit under this article renders the occupational therapy services to which reference is made.

63 (d) An occupational therapy assistant may assist in the practice of occupational therapy  
64 under the general supervision of an occupational therapist.

65 (e) An occupational therapist or an occupational therapy assistant may delegate nonclient-  
66 related tasks to an occupational therapy aide only under the following conditions:

67 (1) The occupational therapy aide functions under the general supervision of either the  
68 occupational therapist or the occupational therapy assistant who is under the general supervision  
69 of the occupational therapist; and

70 (2) The occupational therapy aide provides only tasks for which he or she has been trained  
71 and has demonstrated competence.

72 (f) An occupation therapist or an occupational therapy assistant may delegate specifically  
73 selected client-related tasks to an occupational therapy aide only under the following conditions:

74 (1) The occupational therapy aide functions under the direct continuous supervision of  
75 either the occupational therapist or the occupational therapy assistant that is under the general  
76 supervision of the occupational therapist;

77 (2) The occupational therapy aide provides only tasks for which he or she has been trained  
78 and has demonstrated competence;

79 (3) The outcome anticipated for the delegated task is predictable;

80 (4) The client and the environment are stable and will not require judgment, interpretation,  
81 or adaptation by the occupational therapy aide; and

82 (5) The supervising occupational therapist is responsible for the tasks delegated to the  
83 occupational therapy aide.

84 (g) A licensed occupational therapy assistant may work as a staff member of the  
85 Intellectual Developmental Disabilities Waiver (IDDW) Program when working under the  
86 supervision of licensed occupational therapist.

NOTE: The purpose of this bill is to permit a licensed occupational therapy assistant to work as a staff member of the Intellectual Developmental Disabilities Waiver (IDDW) Program when working under the supervision of licensed occupational therapist.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.