

CHAPTER 616

S.B. No. 300

An Act relating to the operation, administration, and continuation of the Texas Advisory Board of Occupational Therapy and the licensing of occupational therapists and occupational therapy assistants and to treatment of disabled persons; providing a presumption in certain prosecutions; amending the Occupational Therapy Title Act (Article 8851, Vernon's Texas Civil Statutes) by amending Subsection (g), Section 3; Subsections (b), (d), (e), and (l), Section 5; Subsection (a), Section 22; and Sections 11, 14, 16, 18, 25, and 30; and by adding Subsection (m) to Section 5 and Section 25A; adding Section 11 to Chapter 338, Acts of the 64th Legislature, Regular Session, 1975 (Article 6675a-5e.1, Vernon's Texas Civil Statutes).

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsection (g), Section 3, Occupational Therapy Title Act (Article 8851, Vernon's Texas Civil Statutes), is amended to read as follows:

"(g) The board is subject to the Texas Sunset Act [~~as amended~~] (Article 5429k, Vernon's Texas Civil Statutes). Unless the board is continued in existence as provided by that Act, the board is abolished, and this Act expires effective September 1, 1997 [~~1985~~]."

SECTION 2. Section 5, Occupational Therapy Title Act (Article 8851, Vernon's Texas Civil Statutes), is amended by amending Subsections (b), (d), (e), and (l) and adding Subsection (m) to read as follows:

"(b) The board may collect fees for licenses, license renewals, examinations, and all other administrative expenses. If the General Appropriations Act does not set the amount of those fees, the board shall set the fees in amounts that will recover the amount appropriated for the operation of the board from the General Revenue Fund [~~shall prescribe and publish fees for the following:~~

- "(1) application for licensure fee (nonrefundable);
- "~~(2) initial license fee;~~
- "(3) renewal of license fee;
- "~~(4) late renewal fee;~~
- "~~(5) endorsement license fee; and~~
- "~~(6) temporary license fee.~~

"[These fees shall be determined by and limited to the board's operational costs in implementing the provisions of this Act]."

"(d) The board may investigate complaints; issue, suspend, deny, and revoke licenses; reprimand licensees and place them on probation; issue subpoenas; and hold hearings. The board shall keep an information file about each complaint that is filed with the board relating to a licensee or an entity regulated by the board. If a written complaint is filed with the board relating to a licensee or entity regulated by the board, the board shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation. The board shall notify the parties to the complaint at least as frequently as quarterly until the final disposition of the complaint.

"(e) The board shall propose rules consistent with this Act to carry out its duties in administering this Act, shall submit said rules to the office of the Attorney General of Texas for review, and shall then adopt rules consistent with the advice of the attorney general. In adopting its rules, the board shall consider any applicable policies and procedures of the commission."

"(l) The board shall prepare or approve continuing education programs for licensees and shall require each licensee to participate in an approved continuing education program in order to renew a license issued under this Act [~~may recognize, prepare, implement, and require continuing education programs for persons it licenses~~].

"(m) The board shall develop and implement policies that clearly define the respective responsibilities of the governing body of the board and the staff of the board."

SECTION 3. Section 11, Occupational Therapy Title Act (Article 8851, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 11. OPEN MEETINGS. (a) The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 [~~as amended~~] (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act [~~as amended~~] (Article 6252-13a, Vernon's Texas Civil Statutes).

"(b) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on issues that are under the jurisdiction of the board."

SECTION 4. Section 14, Occupational Therapy Title Act (Article 8851, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 14. APPROPRIATIONS TO TEXAS REHABILITATION COMMISSION. The commission shall receive an account for funds derived under this Act. The commission shall deposit all funds collected under this Act to the credit of the General Revenue Fund. [~~The funds shall be deposited in the State Treasury to the credit of a special fund known as the Occupational Therapy Licensing Fund and may be used only for the administration of this Act and are hereby appropriated for this purpose.~~]"

SECTION 5. Section 16, Occupational Therapy Title Act (Article 8851, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 16. REQUIREMENTS FOR LICENSURE. An applicant applying for a license as an occupational therapist or as an occupational therapy assistant shall file a written application on a form provided by the board, showing to the satisfaction of the board that the applicant [~~he or she~~] meets the following requirements:

- "(1)~~(a) Residence: Applicant need not be a resident of this state.~~
- "~~(b) Character: Applicant shall be of good moral character.~~

"(e) Education: 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. The

“~~[(1) Such]~~ evidence for a license as an occupational therapist shall be ~~[one of the following:~~

“~~[(A)]~~ a baccalaureate degree in occupational therapy, [;]

“~~[(B)]~~ a certificate evidencing successful completion of required undergraduate occupational therapy course work awarded to persons with a baccalaureate degree which is not in occupational therapy, [;] or

“~~[(C)]~~ a postgraduate degree in occupational therapy. *The*

“~~[(2) Such]~~ evidence for a license as an occupational therapy assistant shall be *either* ~~[one of the following:~~

“~~[(A)]~~ an associate degree in occupational therapy, *or* [;]

“~~[(B)]~~ an occupational therapy assistant certificate.

“(2) ~~[(d)]~~ Experience: Applicant shall submit to the board evidence of having successfully completed a period of supervised field work experience arranged by the recognized educational institution where *the applicant* ~~[he or she]~~ met the academic requirements.

“~~[(1)]~~ For an occupational therapist, a minimum of six months of supervised field work experience is required.

“~~[(2)]~~ For an occupational therapy assistant, a minimum of two months of supervised field work experience is required.

“(3) ~~[(e)]~~ Examination: An applicant for licensure as an occupational therapist or as an occupational therapy assistant shall pass an examination as provided for in Section 17 of this Act.”

SECTION 6. Section 18, Occupational Therapy Title Act (Article 8851, Vernon's Texas Civil Statutes), is amended to read as follows:

“Section 18. **LICENSE BY ENDORSEMENT.** (a) A person who is licensed or otherwise registered as an occupational therapist or as an occupational therapy assistant by another state, the District of Columbia, or a commonwealth or territory of the United States whose requirements for licensing or registration were at the date of licensing or registration substantially equal to the requirements prescribed by this Act may receive an occupational therapist license without examination, on submission of an application on a form prescribed by the board and payment of an endorsement license fee prescribed by the board.

“(b) *The board may also waive examination requirements for a person who is certified by a national association approved by the board and who is currently practicing in a state that does not require a license or other form of registration.*”

SECTION 7. Subsection (a), Section 22, Occupational Therapy Title Act (Article 8851, Vernon's Texas Civil Statutes), is amended to read as follows:

“(a) The board *may* ~~[shall]~~ issue a temporary license *without examination* to a person who is a recent graduate of an institution of higher education in the United States if the person has applied for a license, has applied to take the licensing examination, and meets the requirements for license under Section 16 of this Act. A person who holds a temporary license may practice only under the supervision of a person who holds a regular license. A temporary license expires on notification of the results of the licensing examination ~~[has applied for a license and meets the qualifications prescribed by Section 16, except Subsection (e) of Section 16, of this Act. This license expires on completion of scoring of the next administered examination whether the applicant passes the examination or not]~~. Issuance of a temporary license following failure of part or all the examination shall be according to rules adopted by the board.”

SECTION 8. Section 25, Occupational Therapy Title Act (Article 8851, Vernon's Texas Civil Statutes), is amended to read as follows:

“Section 25. **RENEWAL OF EXPIRED LICENSE.** (a) *If a person's license has been expired for not more than 90 days, the person may renew the license by paying to the board the required renewal fee plus a late fee in an amount that is one-half of the license fee.*

“(b) *If a person's license has been expired for more than 90 days but less than two years, the person may renew the license by paying to the board all unpaid renewal fees and a late fee that is equal to the license fee.*

“(c) *If a person's license has been expired for two years or more, the person may not renew the license. The person may obtain a new license by applying for a license, submitting to reexamination, and complying with the requirements and procedures for obtaining an original license. However, the board may renew without reexamination an expired license of a person who was licensed in this state, moved to another state, and has been legally practicing in the other state for the two years preceding the application for renewal. The person shall pay to the board a renewal fee that is equal to the license fee.*

“(d) *Not later than the 30th day before the expiration date of a person's license, the board shall send written notice of the impending license expiration to the person at the person's last known*

address. [A license that has expired for less than three years from the date of the application for renewal may be renewed by submission of an application on a form prescribed by the board and payment of a renewal fee established by the board.

“[(b) A license that has expired for more than three consecutive years may be reinstated only by complying with the requirements for issuing an original license.]”

SECTION 9. The Occupational Therapy Title Act (Article 8851, Vernon's Texas Civil Statutes) is amended by adding Section 25A to read as follows:

“Section 25A. INACTIVE STATUS LIST. (a) A person who holds a license under this Act and who is not actively engaged in the practice of occupational therapy may apply to the board in writing to be placed on an inactive status list maintained by the board. The person must apply for inactive status before the expiration of the person's license. A person on inactive status is not required to pay the annual renewal fee.

“(b) A person on inactive status may not perform any activities regulated under this Act.

“(c) If a person on inactive status desires to reenter active practice, the person shall notify the board in writing. The board shall remove the person from the inactive status list on payment of an administrative fee and on compliance with educational or other requirements set by the board by rule.”

SECTION 10. Section 30, Occupational Therapy Title Act (Article 8851, Vernon's Texas Civil Statutes), is amended to read as follows:

“Section 30. [GROUNDS FOR] DENIAL, SUSPENSION, OR REVOCATION OF A LICENSE; [OR] DISCIPLINE OF A LICENSEE. (a) If the board proposes to deny a license or to suspend or revoke a license, the applicant or licensee is entitled to a hearing before the board or before a hearing officer appointed by the board. All final decisions shall be made by the board.

“(b) After hearing, a license may be denied, suspended, or revoked or a licensee otherwise disciplined if the applicant or licensee has:

“(1) used drugs or intoxicating liquors to an extent that affects his or her professional competence;

“(2) been convicted of a crime, other than minor offenses defined as ‘minor misdemeanors,’ ‘violations,’ or ‘offenses,’ in any court if the acts for which he or she was convicted are found by the board to have a direct bearing on whether he or she should be entrusted to service the public in the capacity of an occupational therapist or occupational therapy assistant;

“(3) obtained or attempted to obtain a license by fraud or deception;

“(4) been grossly negligent in the practice of occupational therapy or in acting as an occupational therapy assistant;

“(5) been adjudicated mentally incompetent by a court of competent jurisdiction;

“(6) practiced occupational therapy in a manner detrimental to the public health and welfare;

“(7) advertised in a manner that in any way tends to deceive or defraud the public; or

“(8) had his or her license to practice occupational therapy revoked or suspended or had other disciplinary action taken against him or her or had his or her application for a license refused, revoked, or suspended by the proper licensing authority of another state, territory, or nation.”

SECTION 11. A person who holds a temporary license on the effective date of this Act may practice under the terms of that license until the license expires.

SECTION 12. All balances accrued to the credit of the Occupational Therapy Licensing Fund on the effective date of this Act are hereby reverted to the General Revenue Fund.

SECTION 13. Chapter 338, Acts of the 64th Legislature, Regular Session, 1975 (Article 6675a-5e.1, Vernon's Texas Civil Statutes), is amended by adding Section 11 to read as follows:

“Section 11. PRESUMPTION. In a prosecution of an offense under Section 10 of this Act, it is presumed that the registered owner of the motor vehicle that is the subject of the prosecution is the person who parked the vehicle at the time and place the offense occurred.”

SECTION 14. This Act takes effect September 1, 1985.

SECTION 15. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 20, 1985, by a viva-voce vote; Senate concurred in House amendments on May 26, 1985, by a viva-voce vote; passed the House, with amendments, on May 25, 1985, by a non-record vote.

Approved: June 14, 1985

Effective: September 1, 1985