

SENATE BILL NO. 153—SENATOR PARKS (BY REQUEST)

FEBRUARY 18, 2013

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to occupational therapy.
(BDR 54-568)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to occupational therapy; providing that occupational therapists are providers of health care for certain purposes; revising the qualifications for a license as an occupational therapist or occupational therapy assistant; revising provisions governing the examinations required for licensing as an occupational therapist or occupational therapy assistant; revising the circumstances in which the Board of Occupational Therapy may issue a license as an occupational therapist or occupational therapy assistant or a temporary license without examination; revising provisions governing the period for which a license is valid; removing the requirement that a licensed occupational therapist directly supervise certain persons; requiring the Board to adopt regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill includes an occupational therapist within the term “provider of health care” to make occupational therapists subject to the same provisions governing health care records and certain other matters as other providers of health care such as doctors, nurses, pharmacists and registered physical therapists.

Existing law provides for the licensure and regulation by the Board of Occupational Therapy of occupational therapists and occupational therapy assistants. (Chapter 640A of NRS) **Section 2** of this bill revises the definition of the term “occupational therapy.” **Section 3** of this bill, by deleting an existing exemption, makes the provisions of existing law governing occupational therapy applicable to certain persons practicing occupational therapy in this State in association with a licensed occupational therapist.



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Section 4 of this bill provides that the Board must hold its meetings at the times specified by a call of the Chair. **Section 5** of this bill provides that the Board may employ an Executive Director, establish his or her duties and fix his or her salary. **Section 6** of this bill revises the duties of the Board to include the investigation of any complaint filed with the Board against a licensee and authorizes the Board to transact any business necessary to enable the Board to carry out its duties.

Section 7 of this bill provides that an applicant for a license as an occupational therapist or occupational therapy assistant must complete supervised fieldwork experience and revises from 8 weeks to 16 weeks the required number of weeks of such experience for an applicant for licensing as an occupational therapy assistant.

Section 9 of this bill revises the qualifications of a person to whom the Board may issue, without examination, a license as an occupational therapist or occupational therapy assistant. **Section 10** of this bill provides that the Board may issue, without examination, a temporary license to a person who satisfies certain requirements and who: (1) is certified by the National Board for Certification in Occupational Therapy and is licensed as an occupational therapist or occupational therapy assistant in good standing in another state; or (2) has not achieved a passing score on the examination required for licensure.

Section 11 of this bill requires the Board to adopt regulations prescribing the period of validity of licenses issued by the Board and provides that the period must be at least 1 year. **Section 11** also provides that the Board may reinstate an expired license, unless 5 years have passed since the license expired. **Section 13** of this bill removes the requirement that a licensed occupational therapist directly supervise the work of any person who assists him or her as an aide or technician.

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

Section 1. NRS 629.031 is hereby amended to read as follows:
629.031 Except as otherwise provided by a specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, physician assistant, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, *occupational therapist*, podiatric physician, licensed psychologist, licensed marriage and family therapist, licensed clinical professional counselor, music therapist, chiropractor, athletic trainer, perfusionist, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist, licensed dietitian or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061, 629.065 and 629.077, the term includes a facility that maintains the health care records of patients.

Sec. 2. NRS 640A.050 is hereby amended to read as follows:

640A.050 "Occupational therapy" means the ~~application of~~ *purposeful activity in the evaluation, teaching and treatment; use of evaluations, teachings and interventions to facilitate the activities of daily living of a client* in groups or on an individual basis ~~for~~ *of* ~~patients who are handicapped by age, physical injury or illness;~~



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~~psychosocial dysfunction, developmental or learning disability, poverty or aspects of culture, to increase their independence, alleviate their disability and maintain their health.~~ *to enable the client to participate in and perform activities of daily living in various settings, including, without limitation, at home, at school, in the workplace and in the community.* The term includes:

1. *Providing services for habilitation, rehabilitation and the promotion of health and wellness to a client;*

2. *Assisting a client in achieving the highest practicable physical, cognitive and psychosocial well-being to improve the physical and mental health of the client and the quality of life of the client;*

3. Teaching ~~{patients}~~ *a client* skills for daily living;

~~{2-}~~ 4. Assisting ~~{patients}~~ *a client* in the development of cognitive and perceptual motor skills, and in the integration of sensory functions;

~~{3-}~~ 5. Assisting ~~{patients}~~ *a client* in learning to play and to use ~~{their}~~ *his or her* leisure time constructively;

~~{4-}~~ 6. Assisting ~~{patients}~~ *a client* in developing functional skills necessary to be considered for employment;

~~{5-}~~ 7. Assessing the need for, designing, constructing and training ~~{patients}~~ *a client* in the use and application of selected orthotic devices and adaptive equipment;

~~{6-}~~ 8. Assessing the need for prosthetic devices for the upper body and training ~~{patients}~~ *a client* in the functional use of prosthetic devices;

~~{7-}~~ 9. Teaching ~~{patients}~~ *a client* crafts and exercises designed to enhance ~~{their}~~ *his or her* ability to function normally;

~~{8-}~~ 10. Administering to ~~{patients}~~ *a client* manual tests of ~~{their}~~ *his or her* muscles and range of motion, and interpreting the results of those tests;

~~{9-}~~ 11. Incorporating into the treatment of ~~{patients}~~ *a client* the safe and appropriate use of physical ~~{therapeutic}~~ *agent* modalities and techniques which have been acquired through an appropriate program of education approved by the Board pursuant to subsection 2 of NRS 640A.120, or through a program of continuing education or higher education; and

~~{10-}~~ 12. Adapting the environment of ~~{patients}~~ *a client* to reduce the effects of handicaps.

Sec. 3. NRS 640A.070 is hereby amended to read as follows:

640A.070 This chapter does not apply to a person:

1. Holding a current license or certificate issued pursuant to chapter 391, 630 to 637B, inclusive, 640 or 640B to 641B, inclusive, of NRS, who practices within the scope of that license or certificate.



2. Employed by the Federal Government who practices occupational therapy within the scope of that employment.

3. Enrolled in an educational program approved by the Board which is designed to lead to a certificate or degree in occupational therapy, if the person is designated by a title which clearly indicates that he or she is a student.

4. Obtaining the supervised *fieldwork* experience necessary to satisfy the requirements of subsection 3 of NRS 640A.120.

~~5. Practicing occupational therapy in this State in association with an occupational therapist licensed pursuant to this chapter if the person:~~

~~—(a) Practices in this State for not more than 45 days in a calendar year;~~

~~—(b) Is licensed to practice occupational therapy in another state where the requirements for such a license are equivalent to the requirements of this chapter; and~~

~~—(c) Meets the requirements for certification as an “occupational therapist registered” or “certified occupational therapy assistant” established by the American Occupational Therapy Certification Board.~~

Sec. 4. NRS 640A.090 is hereby amended to read as follows:

640A.090 1. The Board shall:

(a) Hold at least two meetings a year ~~1, the first of which must be held in January. Other meetings may be held~~ at the call of the Chair or upon the written request of two or more members.

(b) Elect a Chair at the *first* regular meeting ~~in January~~ of each year.

(c) Comply with the provisions of chapter 241 of NRS.

2. A majority of the members of the Board constitutes a quorum.

Sec. 5. NRS 640A.100 is hereby amended to read as follows:

640A.100 1. The members of the Board serve without compensation, except that while engaged in the business of the Board, each member is entitled to the per diem allowance and travel expenses provided for state officers and employees generally.

2. The Board may employ an Executive ~~Secretary~~ *Director* and any other employees it deems necessary, establish their duties and fix their salaries.

3. The expenses of the Board and members of the Board, and the salaries of its employees, must be paid from the fees received by the Board pursuant to this chapter, and no part of those expenses and salaries may be paid out of the State General Fund.

Sec. 6. NRS 640A.110 is hereby amended to read as follows:

640A.110 1. The Board shall:

~~1-1~~ (a) Enforce the provisions of this chapter ~~1~~



~~2. Maintain~~ and any regulations adopted pursuant thereto;

(b) Prepare and maintain a record of its proceedings ~~;~~

~~3.;~~ , including, without limitation, any administrative proceedings;

(c) Evaluate the qualifications and determine the eligibility of an applicant for a license as an occupational therapist or occupational therapy assistant and, upon payment of the appropriate fee, issue the appropriate license to a qualified applicant;

~~4.;~~ (d) Adopt regulations establishing standards of practice for persons licensed pursuant to this chapter and any other regulations necessary to carry out the provisions of this chapter; ~~and~~

~~5.;~~ (e) Require a person licensed pursuant to this chapter to submit to the Board such documentation ~~for perform such practical demonstrations~~ as the Board deems necessary to determine whether the licensee has acquired the skills necessary to perform physical ~~therapeutic~~ agent modalities ~~;~~; and

(f) Investigate any complaint filed with the Board against a licensee.

2. The Board may transact any other business necessary to enable the Board to carry out its duties pursuant to this chapter.

Sec. 7. NRS 640A.120 is hereby amended to read as follows:

640A.120 To be eligible for licensing by the Board as an occupational therapist or occupational therapy assistant, an applicant must:

1. Be a natural person of good moral character.

2. Except as otherwise provided in NRS 640A.130, have satisfied the academic requirements of an educational program approved by the Board. The Board shall not approve an educational program designed to qualify a person to practice as ~~;~~

~~(a) An~~ an occupational therapist ~~unless the program is accredited by the Commission on Accreditation of Allied Health Education Programs of the American Medical Association in collaboration with the American Occupational Therapy Association.~~

~~(b) An~~ or an occupational therapy assistant unless the program is ~~approved~~ accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association ~~;~~, Inc., or its successor organization.

3. Except as otherwise provided in NRS 640A.130, have successfully completed:

(a) If the application is for licensing as an occupational therapist, 24 weeks; or

(b) If the application is for licensing as an occupational therapy assistant, ~~18~~ 16 weeks,

↳ of supervised fieldwork experience approved by the Board. The Board shall not approve any supervised experience unless the



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1 experience was sponsored by the American Occupational Therapy
2 Association, *Inc., or its successor organization*, or the educational
3 institution at which the applicant satisfied the requirements of
4 subsection 2.

5 4. Except as otherwise provided in NRS 640A.160 and
6 640A.170, pass an examination approved by the Board.

7 **Sec. 8.** NRS 640A.150 is hereby amended to read as follows:

8 640A.150 1. The Board shall:

9 (a) Approve an examination for licensing as an occupational
10 therapist and an examination for licensing as an occupational
11 therapy assistant; *and*

12 (b) Establish the requirements to pass each examination. ~~†;~~

13 ~~—(c) Offer each examination at least twice each year at such~~
14 ~~places and under such conditions as it determines; and~~

15 ~~—(d) Provide reasonable public notice of the time and place of~~
16 ~~each examination.†~~

17 2. Each examination must be in writing and be designed to test
18 an applicant's knowledge of:

19 (a) The basic and clinical sciences relating to occupational
20 therapy;

21 (b) The techniques and methods of occupational therapy; and

22 (c) Any other subjects the Board requires to determine the
23 fitness of an applicant to practice occupational therapy.

24 3. A person who has satisfied the requirements of NRS
25 640A.140 may take the appropriate examination for licensing. ~~†An~~
26 ~~applicant who fails the examination may retake the examination no~~
27 ~~more than twice.†~~

28 **Sec. 9.** NRS 640A.160 is hereby amended to read as follows:

29 640A.160 The Board may issue, without examination, a license
30 as an occupational therapist or occupational therapy assistant to a
31 person who has the qualifications required pursuant to subsections
32 1, 2 and 3 of NRS 640A.120 and who is ~~†:~~

33 ~~—1. Certified after June 18, 1991, by the American Occupational~~
34 ~~Therapy Certification Board, if the Board of Occupational Therapy~~
35 ~~determines that the requirements to obtain that certification are~~
36 ~~equivalent to the requirements for licensing pursuant to this chapter.~~

37 ~~—2. Licensed as an occupational therapist or occupational~~
38 ~~therapy assistant in another state or territory of the United States, if~~
39 ~~the Board determines that the requirements to obtain that license are~~
40 ~~equivalent to the requirements for licensing pursuant to this~~
41 ~~chapter.†~~ *certified by the National Board for Certification in*
42 *Occupational Therapy or its successor organization.*

43 **Sec. 10.** NRS 640A.170 is hereby amended to read as follows:

44 640A.170 1. The Board may issue, without examination, a
45 temporary license to a person who has the qualifications required



pursuant to subsections 1, 2 and 3 of NRS 640A.120 ~~1. A temporary license;~~ and who:

(a) ~~1. Authorizes~~ Is certified by the National Board for Certification in Occupational Therapy or its successor organization and is licensed as an occupational therapist or occupational therapy assistant in good standing in another state; or

(b) Has not achieved the passing score on the examination approved pursuant to NRS 640A.150. A temporary license issued pursuant to this paragraph authorizes the person to whom it is issued to practice occupational therapy only under the general supervision of an occupational therapist licensed pursuant to this chapter. ~~2. and~~

~~(b) Is~~

2. A temporary license issued pursuant to subsection 1 is valid for 6 months or until the person to whom it is issued otherwise obtains a license pursuant to this chapter, whichever occurs first.

~~2. 3.~~ The Board may renew a temporary license ~~not~~ not more than once and may revoke a temporary license for any of the grounds set forth in NRS 640A.200.

Sec. 11. NRS 640A.180 is hereby amended to read as follows:

640A.180 1. The Board shall adopt regulations prescribing the period for which a license issued pursuant to the provisions of this chapter is valid. Except as otherwise provided in NRS 640A.170, the period must be not less than 1 year.

2. The Board may adopt regulations prescribing the manner in which a license issued pursuant to this chapter ~~expires annually unless~~ must be renewed, ~~in the manner established pursuant to the regulations of the Board,~~ which may include requirements for continuing education.

~~2. 3.~~ The Board may adopt regulations providing for the late renewal of a license ~~and the reinstatement of an expired license,~~ except that the Board may not renew ~~or reinstate~~ a license if 5 years have passed since its expiration.

~~3. 4.~~ The Board may, at the request of a person licensed pursuant to this chapter, place the license on inactive status if the person:

(a) Does not practice occupational therapy, or represent that the person is authorized to practice occupational therapy, in this State; and

(b) Satisfies any requirements for continuing education established by the Board.

Sec. 12. NRS 640A.190 is hereby amended to read as follows:

640A.190 1. The Board may by regulation establish reasonable fees for:



- 1 (a) The examination of an applicant for a license;
- 2 (b) The initial issuance of a license;
- 3 (c) The issuance of a temporary license;
- 4 (d) The ~~annual~~ renewal of a license; and
- 5 (e) The late renewal of a license.

6 2. The fees must be set in such an amount as to reimburse the
7 Board for the cost of carrying out the provisions of this chapter.

8 **Sec. 13.** NRS 640A.230 is hereby amended to read as follows:

9 640A.230 ~~11.~~ Except as otherwise provided in NRS 629.091,
10 a person shall not practice occupational therapy, or represent that he
11 or she is authorized to practice occupational therapy, in this state
12 unless he or she holds a current license issued pursuant to this
13 chapter.

14 ~~12. A licensed occupational therapist shall directly supervise~~
15 ~~the work of any person who assists him or her as an aide or~~
16 ~~technician.~~

17 ~~3.~~ A person who violates ~~any provision of~~ this section is
18 guilty of a misdemeanor.

