

45:9-37.51

LEGISLATIVE HISTORY CHECKLIST
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(Occupational therapists--
licensing)

NJSA: 45:9-37.51 et seq

LAWS OF: 1993 **CHAPTER:** 85

BILL NO: S714

SPONSOR(S) DiFrancesco

DATE INTRODUCED: May 4, 1992

COMMITTEE: **ASSEMBLY:** Commerce
SENATE: Commerce

AMENDED DURING PASSAGE: Yes Amendments denoted by
superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** March 8, 1993
SENATE: December 7, 1992

DATE OF APPROVAL: March 18, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[FIRST REPRINT]

SENATE, No. 714

STATE OF NEW JERSEY

INTRODUCED MAY 4, 1992

By Senator DiFRANCESCO

1 AN ACT providing for the licensing of occupational therapists
2 and occupational therapy assistants and supplementing Title 45
3 of the Revised Statutes.

4

5 BE IT ENACTED *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 1. This act shall be known and may be cited as the
8 "Occupational Therapy Licensing Act."

9 2. The Legislature finds and declares that it is necessary to
10 regulate persons offering occupational therapy services to
11 safeguard the public health, safety, and welfare and to protect
12 the public from incompetent, unscrupulous and unauthorized
13 persons; to assure the highest degree of professional conduct on
14 the part of occupational therapists and occupational therapy
15 assistants; and to guarantee the availability of occupational
16 therapy services of high quality to persons in need of those
17 services.

18 3. As used in this act:

19 "Council" means the Occupational Therapy Advisory Council
20 established pursuant to section 4 of this act.

21 "Director" means the Director of the Division of Consumer
22 Affairs in the Department of Law and Public Safety.

23 ¹["In consultation with" means the collaboration of a licensed
24 occupational therapist with an occupational therapy assistant on
25 a regularly scheduled basis for the purpose of the planning,
26 review or evaluation of occupational therapy services.]¹

27 "Occupational therapist" means a person licensed to practice
28 occupational therapy pursuant to the provisions of this act.

29 "Occupational therapy" means the evaluation, planning and
30 implementation of a program of purposeful activities to develop
31 or maintain functional skills necessary to achieve the maximal
32 physical or mental functioning, or both, of the individual in his
33 daily occupational performance. The tasks of daily living may be
34 threatened or impaired by physical injury or illness,
35 developmental deficits, sensorimotor dysfunction, psychological
36 and social dysfunction, the aging process, poverty, or cultural
37 deprivation. Occupational therapy utilizes task oriented
38 activities adapted to prevent or correct physical or emotional
39 deficits as well as to minimize the disabling effects of those
40 deficits on the life of the individual. Occupational therapy
41 services include the use of specific techniques which enhance
42 functional performance and include, but are not limited to, the

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted February 25, 1993.

1 evaluation and assessment of an individual's self care, lifestyle
2 performance patterns, work skills, performance related cognitive,
3 sensory, motor, perceptual, affective, interpersonal and social
4 functioning, vocational and prevocational capacities, the design,
5 fabrication and application of adaptive equipment or prosthetic
6 or orthotic devices, excluding dental devices, the administration
7 of standardized and nonstandardized assessments, and
8 consultation concerning the adaptation of physical environments
9 for the handicapped. These services are provided to individuals
10 or groups through medical, health, educational and social systems.

11 "Occupational therapy assistant" means a person licensed
12 pursuant to the provisions of this act to assist in the practice of
13 occupational therapy under the supervision of or in
14 ¹[consultation] collaboration¹ with an occupational therapist ¹on
15 a regularly scheduled basis for the purpose of the planning,
16 review or evaluation of occupational therapy services¹.

17 "Purposeful activities" means acts and occupations of
18 craftsmanship and workmanship, as well as creative, educational,
19 or other activities, which in whole or in part are used to correct,
20 compensate for or prevent dysfunction in the tasks and activities
21 of everyday living, and which simultaneously incorporate
22 personally and culturally relevant biological, psychological and
23 social elements that produce positive adaptation and motivational
24 behavior.

25 "Supervision" means the responsible and direct involvement of
26 a licensed occupational therapist with an occupational therapy
27 assistant for the development of an occupational therapy
28 treatment plan and the periodic review of the implementation of
29 that plan. The form and extent of the supervision shall be
30 determined by the ¹[occupational therapist considering the
31 competency of the occupational therapy assistant, the treatment
32 setting, and the needs of the occupational therapy client]
33 council¹.

34 "Task oriented activities" means purposeful activities having
35 an explicit, observable and measurable short-term goal which
36 contributes to the well-being of self or others.

37 4. There is established in the Division of Consumer Affairs in
38 the Department of Law and Public Safety an Occupational
39 Therapy Advisory Council appointed by the Governor, with the
40 advice and consent of the Senate, which shall serve as an advisory
41 body to the Director of the Division of Consumer Affairs ¹[with
42 respect to the qualifications of applicants for licensure as
43 occupational therapists and occupational therapy assistants]¹.
44 The council shall consist of seven members who are residents of
45 the State, four of whom shall be licensed occupational therapists
46 having at least five years of experience in occupational therapy
47 in this State immediately preceding appointment, one of whom
48 shall be a licensed occupational therapy assistant having at least
49 five years of experience in occupational therapy in this State
50 immediately preceding appointment, and two of whom shall be
51 public members. The first occupational therapist and
52 occupational therapy assistant members shall be qualified for
53 licensure pursuant to the provisions of this act.

54 Except for those first appointed, members shall serve for a

1 term of three years. Each member shall hold office until the
2 appointment of his successor. A vacancy in the office of any
3 member shall be filled for the unexpired term only. The initial
4 appointment to the council shall be two members for terms of
5 one year, two members for terms of two years, and three
6 members for terms of three years. No member shall serve more
7 than two successive terms.

8 The Governor may remove any council member for misconduct,
9 incompetency or neglect of duty after providing the council
10 member with a written statement of charges and an opportunity
11 for a hearing thereon.

12 5. The members of the council, before entering the discharge
13 of their duties, and within 30 days after their appointment, shall
14 take and subscribe to an oath before an officer authorized to
15 administer oaths in this State for the faithful performance of
16 their duties and file the oath with the Secretary of State. The
17 members of the council shall annually elect from their number a
18 chairman and a ¹[secretary-treasurer] vice-chairman¹ each of
19 whom shall hold office for one year and until a successor is
20 elected and qualified.

21 Regular meetings of the council shall be held at such times and
22 places as it prescribes and special meetings may be held upon the
23 call of the chairman or the director. At least two regular
24 meetings shall be held each year.

25 6. The Attorney General shall provide the director with such
26 facilities and personnel as shall be required for the proper
27 administration of this act and may authorize reimbursement of
28 the members of the council for their actual expenses incurred in
29 connection with the performance of their duties as members of
30 the council.

31 7. ¹[The director shall have the following powers and duties] In
32 addition to such other powers and duties as the director may
33 possess by law, the director shall¹:

34 a. ¹[To administer] Administer¹, coordinate and enforce the
35 provisions of this act and ¹[to]¹ delegate, at ¹[his] the director's¹
36 discretion, to the council one or more of the director's powers or
37 duties authorized pursuant to this act;

38 b. ¹[To evaluate] Evaluate¹ the qualifications of applicants for
39 licensure ¹under this act¹ as an occupational therapist or
40 occupational therapy assistant and ¹[to] administer or¹ approve
41 ¹in consultation with the council¹ the examinations for licensure
42 as an occupational therapist or occupational therapy assistant
43 ¹and issue a license to each qualified applicant¹ ;

44 c. ¹[To investigate] Investigate¹ allegations of practices
45 violating the provisions of this act;

46 d. ¹[To establish] Establish¹ standards relating to professional
47 conduct, qualifications for professional licensure, ethical
48 standards, and disciplinary proceedings;

49 e. ¹[To maintain] Maintain¹ a record of every occupational
50 therapist and occupational therapy assistant licensed in this
51 State, their places of business, places of residence and the date
52 and number of their licenses;

53 f. ¹[To do] Conduct hearings pursuant to the "Administrative
54 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), except that

1 the director shall have the right to administer oaths to witnesses,
2 and shall have the power to issue subpoenas for the compulsory
3 attendance of witnesses and the production of pertinent books,
4 papers, or records;

5 g. Do¹ any and all things which may be appropriate to achieve
6 the objectives contemplated by this act.

7 8. Within 90 days of the effective date of this act, the director
8 shall make reasonable efforts to¹ notify all occupational therapy
9 practitioners currently practicing in this State of the provisions
10 of this act and the requirement for licensure under the act ¹by
11 sending notice to all licensed health care facilities and to
12 appropriate trade associations¹.

13 9. a. No person shall practice occupational therapy, whether
14 or not compensation is received or expected, or represent himself
15 as an occupational therapist or occupational therapy assistant,
16 unless the person holds a valid license to practice in this State.

17 b. Only an individual may be licensed to practice occupational
18 therapy within the State. No firm, partnership, association or
19 corporation may advertise or otherwise offer to provide or
20 convey the impression that it is providing occupational therapy
21 services unless an individual holding a current valid license
22 pursuant to the provisions of this act shall be rendering the
23 occupational therapy services.

24 10. The provisions of this act shall not be construed to prevent
25 the following provided that no word, letter, abbreviation,
26 insignia, sign, card or device is used to convey the impression
27 that the person rendering the service is a licensed occupational
28 therapist or occupational therapy assistant:

29 a. Any person licensed to practice in this State under any
30 other law from engaging in the practice for which he is licensed;

31 b. Any person employed as an occupational therapist or
32 occupational therapy assistant by the federal government, if the
33 person provides occupational therapy services solely under the
34 direction or control of the organization by which he is employed;

35 c. Any person pursuing a course of study leading to a degree or
36 certificate in occupational therapy at an accredited or approved
37 educational program if the pursuit is part of a supervised course
38 of study and if the person is designated by a title which clearly
39 indicates status as a student or trainee;

40 d. Any person fulfilling the supervised fieldwork experience
41 requirements of sections 11 and 12 of this act, if the activities
42 and the services are a part of the experience necessary to meet
43 the requirements of those sections;

44 e. Any person performing occupational therapy services in this
45 State if those services are performed for no more than 60 days in
46 a calendar year in association with an occupational therapist
47 licensed pursuant to this act provided that ¹[(1)]¹ the person is
48 regulated by the laws of another ¹[State] state¹ which has
49 regulatory requirements which are equivalent to those of this
50 State ¹[or (2) the person meets the requirements for certification
51 or registration of a nationally recognized professional association
52 of occupational therapists approved by the director]¹.

53 11. To be eligible for licensure as an occupational therapist, an
54 applicant shall fulfill the following requirements:

- 1 a. Be at least 18 years of age;
- 2 b. Be of good moral character;
- 3 c. Present evidence to the director of having successfully
- 4 completed the academic requirements of an educational program
- 5 in occupational therapy approved by the director, in consultation
- 6 with the council, and accredited by the ¹[Committee on Allied
- 7 Health Education and Accreditation of the American Medical
- 8 Association] American Occupational Therapy Association, the
- 9 World Federation of Occupational Therapy or other nationally
- 10 recognized programmatic accrediting agency¹;
- 11 d. Submit to the director evidence of having successfully
- 12 completed at least 24 weeks of supervised fieldwork experience
- 13 approved by the educational institution at which the applicant
- 14 completed the occupational therapy educational program ¹[or by
- 15 a nationally recognized professional association]¹; and
- 16 e. Successfully complete an examination administered or
- 17 approved by the director, in consultation with the council, to
- 18 determine the applicant's competence to practice occupational
- 19 therapy.
- 20 12. To be eligible for licensure as an occupational therapy
- 21 assistant, an applicant shall fulfill the following requirements:
- 22 a. Be at least 18 years of age;
- 23 b. Be of good moral character;
- 24 c. Present evidence to the director of having successfully
- 25 completed the academic requirements of an educational program
- 26 in occupational therapy approved by the director, in consultation
- 27 with the council;
- 28 d. Submit to the director evidence of having successfully
- 29 completed at least ¹[eight] 12¹ weeks of supervised fieldwork
- 30 experience approved by the educational institution at which the
- 31 applicant completed the occupational therapy educational
- 32 program ¹[or by a nationally recognized professional
- 33 association]¹; and
- 34 e. Successfully complete an examination administered or
- 35 approved by the director, in consultation with the council, to
- 36 determine the applicant's competence to practice occupational
- 37 therapy.
- 38 13. The examinations required by sections 11 and 12 of this act
- 39 shall test the applicant's knowledge of basic and clinical sciences
- 40 as they relate to occupational therapy, occupational therapy
- 41 techniques and methods, and any other subjects the director, in
- 42 consultation with the council, may require to determine the
- 43 applicant's fitness to practice occupational therapy.
- 44 Examinations shall be held within the State at least twice a year
- 45 at a time and place to be determined by the director, in
- 46 consultation with the council. The director shall give adequate
- 47 written notice of the examination to applicants for licensure and
- 48 examination. An applicant who fails an examination may apply
- 49 for re-examination upon payment of the prescribed fee.
- 50 14. ¹a.¹ The director, in consultation with the council, shall
- 51 issue a license to any applicant who has satisfactorily met all the
- 52 requirements of this act. ¹No license shall be issued to an
- 53 applicant if the applicant has: (1) committed any act which if
- 54 committed by a licensee would be grounds for suspension or

1 revocation; or (2) misrepresented any material fact on the
2 applicant's application.¹

3 ¹b.¹ Except in the case of a temporary license issued pursuant
4 to section 17 of this act, all licenses shall be issued for a
5 two-year period upon the payment of the licensing fee prescribed
6 by the director, and shall be renewed upon the filing of a renewal
7 application and the payment of a licensing renewal fee. The
8 director may provide for the late renewal of a license upon the
9 payment of a late fee in accordance with rules and regulations,
10 but no late renewal of a license may be granted more than five
11 years after its expiration.

12 ¹c. A practitioner whose license is suspended or revoked or
13 whose surrender of license with or without prejudice has been
14 accepted by the director or the council shall promptly deliver the
15 original license and current biennial registration to the council.¹

16 15. ¹[Any] For one year following the date procedures for
17 licensure are established by the council, any¹ person who is
18 practicing or residing in this State ¹[on the effective date of this
19 act]¹ shall be licensed by the director without examination upon
20 completion of a licensing application and the payment of the
21 appropriate fee if the applicant is certified or registered prior to
22 the effective date of this act by a nationally recognized
23 professional association of occupational therapists approved by
24 the director ¹, except that no license shall be issued to an
25 applicant if the applicant has: a. committed any act which if
26 committed by a licensee would be grounds for suspension or
27 revocation; or b. misrepresented any material fact on the
28 applicant's application¹. The director may waive the
29 examination for licensure under this act and grant a license to
30 any person who is certified or registered after the effective date
31 of this act by a nationally recognized professional association of
32 occupational therapists approved by the director, if the director,
33 in consultation with the council, determines the requirements for
34 certification or registration are substantially equivalent to the
35 requirements for licensure.

36 16. Upon payment to the director of a fee and the submission
37 of a written application on forms provided by ¹[him] the
38 director¹, the director may waive the examination and grant a
39 license to any applicant who presents proof of current licensure
40 as an occupational therapist or occupational therapy assistant in
41 another state or ¹[possession] territory¹ of the United States or
42 the District of Columbia which has standards substantially
43 equivalent to those of this State as determined by the director, in
44 consultation with the council.

45 17. Upon payment to the director of a fee and the submission
46 of a written application on forms provided by ¹[it] the director¹,
47 the director shall issue a temporary license to a person who has
48 applied for licensure pursuant to this act and who, in the
49 judgement of the director, in consultation with the council, is
50 eligible for ¹[examination] licensure pursuant to section 11 or
51 section 12 of this act¹. A temporary license shall be available to
52 an applicant with his initial application for examination and he
53 may practice only under the direct supervision of a licensed
54 occupational therapist. A temporary license shall expire

1 automatically upon ¹the holder being notified of¹ failure of the
2 licensure examination ¹[but] . The temporary license¹ may be
3 renewed for an additional period until the results of the next
4 licensure examination at which time it shall automatically expire
5 and be surrendered to the director.

6 18. The director may grant inactive license status to a
7 licensee who: a. is not actively practicing as an occupational
8 therapist or an occupational therapy assistant; b. does not
9 represent himself as an occupational therapist or an occupational
10 therapy assistant; and c. completes any continuing education
11 requirements which may be established by the director, in
12 consultation with the council.

13 19. A foreign trained occupational therapist or occupational
14 therapy assistant shall satisfy the examination requirements of
15 this act. Prior to taking the examination, the director shall
16 require a foreign trained applicant to furnish proof of good moral
17 character and the completion of educational and supervised
18 fieldwork requirements substantially equivalent to those of this
19 State.

20 20. The director, in consultation with the council, shall ¹by
21 rule or regulation establish,¹ prescribe ¹or change the¹ fees for
22 ¹[the following purposes:

- 23 a. Initial license fee;
24 b. Renewal of license fee;
25 c. Late renewal fee;
26 d. Temporary license fee.
27 e. Any other fee which the director deems necessary] licenses,
28 renewals of licenses or other services. Licenses shall be renewed
29 on a biennial basis and shall be renewed upon payment to the
30 director of a renewal fee accompanied by a renewal application
31 on a form prescribed by the director¹ .

32 The revenue generated from these fees shall not exceed the
33 operating costs of the director and the council required for the
34 implementation of this act.

35 21. All fees and any ¹[fines] civil penalties¹ imposed by the
36 director shall be forwarded to the State Treasurer and shall be
37 deposited in the General Fund. All expenditures deemed
38 necessary to carry out the provisions of this act shall be paid by
39 the State Treasurer from the funds collected and forwarded by
40 the director subject to, and within the limits of, appropriations
41 made pursuant to law, but expenditures shall not exceed revenues
42 from the operation of this act during any fiscal year.

43 ¹[22. The director, in consultation with the council, may, upon
44 notice and opportunity for a hearing, refuse to issue or renew or
45 may suspend or revoke any license or temporary license issued
46 pursuant to this act or may impose probationary conditions upon a
47 finding that the applicant or licensee:

- 48 a. Has obtained a license or authorization to sit for an
49 examination through fraud, deception, or misrepresentation;
50 b. Has engaged in the use or employment of dishonesty, fraud,
51 deception, misrepresentation, false promise or false pretense;
52 c. Has engaged in gross negligence, gross malpractice or gross
53 incompetence;
54 d. Has engaged in repeated acts of negligence, malpractice or

1 incompetence;

2 e. Has engaged in professional misconduct as may be
3 determined by the director;

4 f. Has been convicted of any crime involving moral turpitude
5 or any crime relating adversely to the activity regulated by the
6 director. For the purpose of this subsection a plea of guilty, non
7 vult, nolo contendere or any other such disposition of alleged
8 criminal activity shall be deemed a conviction;

9 g. Has had his authority to engage in the activity regulated by
10 the director revoked or suspended by any other state, agency or
11 authority for reasons consistent with this section;

12 h. Has violated or failed to comply with the provisions of any
13 act or regulation administered by the director;

14 i. Is incapable, for medical or any other good cause, of
15 discharging the functions of a licensee in a manner consistent
16 with the public's health, safety and welfare.]¹

17 ¹[23.] 22.¹ The director, in consultation with the council, may
18 restore a license after one year from the date of its revocation.
19 The director shall hold a hearing to consider any application for
20 reinstatement.

21 ¹[24.] 23.¹ ¹[Any person who violates the provisions of this act
22 shall be subject to a penalty of \$200 for the first offense and
23 \$500 for each subsequent offense, to be sued for and recovered by
24 and in the name of the director pursuant to the provisions of "the
25 penalty enforcement law," N.J.S.2A:58-1 et seq.] The provisions
26 of the uniform enforcement law, P.L.1978, c.73 (C.45:1-14 et
27 seq.) shall apply to this act and the director shall be deemed to
28 have all authority granted to any board under that act. The
29 authority of the director may be delegated to the council at the
30 discretion of the director.¹

31 If any person practices without a valid license or holds himself
32 out as being able to practice occupational therapy in violation of
33 section 9 of this act, each day during which the violation
34 continues shall constitute an additional and separate and distinct
35 offense for the purposes of this section.

36 ¹[25.] 24.¹ Nothing in this act shall authorize: the diagnosis of
37 disease or the practice of medicine and surgery by any person not
38 licensed to do so pursuant to chapter 9 of Title 45 of the Revised
39 Statutes; the practice of psychology by a person not licensed to
40 do so pursuant to the "Practicing Psychology Licensing Act,"
41 P.L.1966, c.282 (C.45:14B-1 et seq.); the practice of chiropractic
42 by a person not licensed to do so pursuant to the "Chiropractic
43 Board Act," P.L.1989, c.153 (C.45:9-41.17 et al.); ¹the practice
44 of nursing by a person not licensed to do so pursuant to the
45 provisions of P.L.1947, c.262 (C.45:11-23 et seq.);¹ or the
46 practice of physical therapy by a person not licensed to do so
47 pursuant to the "Physical Therapist Licensing Act of 1983,"
48 P.L.1983, c.296 (C.45:9-37.11 et seq.) except the practice of
49 occupational therapy as defined in section 3 of this act.

50 ¹[26.] 25.¹ The director, in consultation with the council, shall
51 adopt, amend or repeal regulations pursuant to the
52 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
53 seq.) necessary to effectuate the purposes of this act.

1 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary
2 to effectuate the purposes of this act.

3 27. This act shall take effect immediately, except that section
4 9 shall remain inoperative for 180 days following enactment.

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6

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STATEMENT

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9 This bill provides for the regulation and licensure of
10 occupational therapists and occupational therapy assistants by
11 the Director of the Division of Consumer Affairs in the
12 Department of Law and Public Safety. The bill defines
13 occupational therapy as "the evaluation, planning, and
14 implementation of a program of purposeful activities to develop
15 or maintain functional skills necessary to achieve the maximal
16 physical or mental functioning, or both, of the individual in his
17 daily occupational performance. . . ." The bill provides that
18 occupational therapy assistants assist in the practice of
19 occupational therapy under the supervision or in consultation with
20 an occupational therapist.

21 The bill establishes a seven-member Occupational Therapy
22 Advisory Council in the Division of Consumer Affairs to serve as
23 an advisory body to the director.

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28 The "Occupational Therapy Licensing Act"; provides for the
29 licensure of occupational therapists and occupational therapy
30 assistants.

ASSEMBLY COMMERCE AND REGULATED
PROFESSIONS COMMITTEE

STATEMENT TO

SENATE, No. 714

STATE OF NEW JERSEY

DATED: FEBRUARY 22, 1993

The Assembly Commerce and Regulated Professions Committee reports favorably Senate, No. 714.

This bill provides for the regulation and licensure of occupational therapists and occupational therapy assistants by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety. The bill defines occupational therapy as "the evaluation, planning and implementation of a program of purposeful activities to develop or maintain functional skills necessary to achieve the maximal physical or mental functioning, or both, of the individual in his daily occupational performance. . . . Occupational therapy utilizes task oriented activities adapted to prevent or correct physical or emotional deficits as well as to minimize the disabling effects of those deficits on the life of the individual. Occupational therapy services include the use of specific techniques which enhance functional performance and include, but are not limited to, the evaluation and assessment of an individual's self care, lifestyle performance patterns, work skills, performance related cognitive, sensory, motor, perceptual, affective, interpersonal and social functioning, vocational and prevocational capacities, the design, fabrication and application of adaptive equipment or prosthetic or orthotic devices, excluding dental devices, the administration of standardized and nonstandardized assessments, and consultation concerning the adaptation of physical environments for the handicapped. These services are provided to individuals or groups through medical, health, educational and social systems." The bill provides that occupational therapy assistants assist in the practice of occupational therapy under the supervision of or in consultation with an occupational therapist.

The bill establishes a seven member Occupational Therapy Advisory Council in the Division of Consumer Affairs to serve as an advisory body to the director with respect to the qualifications of applicants for licensure as occupational therapists and occupational therapy assistants. The council, which is to be appointed by the Governor, with the advice and consent of the Senate, is to consist of four licensed occupational therapists, one licensed occupational therapy assistant and two public members. The bill provides that the director has the following powers and duties, which may be delegated by the director to the council:

a. To administer, coordinate and enforce the provisions of the bill;

b. To evaluate the qualifications of applicants for licensure as an occupational therapist or occupational therapy assistant and to approve the examinations for licensure as an occupational therapist or occupational therapy assistant;

c. To investigate allegations of practices violating the provisions of the bill;

d. To establish standards relating to professional conduct, qualifications for professional licensure, ethical standards, and disciplinary proceedings;

e. To maintain a record of every occupational therapist and occupational therapy assistant licensed in this State, their places of business, places of residence and the date and number of their licenses; and

f. To do any and all things which may be appropriate to achieve the objectives contemplated by the bill.

Under the bill's provisions, to be eligible for licensure as an occupational therapist, an applicant must:

a. Be at least 18 years of age;

b. Be of good moral character;

c. Present evidence of having successfully completed the academic requirements of an educational program in occupational therapy approved by the director, in consultation with the council, and accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association;

d. Submit to the director evidence of having successfully completed at least 24 weeks of approved supervised fieldwork experience; and

e. Successfully complete an examination administered or approved by the director, in consultation with the council.

To be eligible for licensure as an occupational therapy assistant, an applicant must:

a. Be at least 18 years of age;

b. Be of good moral character;

c. Present evidence of having successfully completed the academic requirements of an educational program in occupational therapy approved by the director, in consultation with the council;

d. Submit to the director evidence of having successfully completed at least eight weeks of approved supervised fieldwork experience; and

e. Successfully complete an examination administered or approved by the director, in consultation with the council.

Beginning 180 days after the date of enactment of the bill, only a person who is licensed as an occupational therapist or occupational therapy assistant may practice occupational therapy or represent himself to the public as an occupational therapist or occupational therapy assistant in this State. The bill requires licensure without examination of any person practicing occupational therapy or residing in this State on the effective date of this bill if that person is certified or registered prior to that effective date by a nationally recognized professional association of occupational therapists approved by the director. The bill also permits the director to waive the examination requirement if a person is certified or registered after the effective date of this bill by a nationally recognized professional association of occupational therapists approved by the director, if it is determined that the requirements for certification or registration are substantially equivalent to the requirements for licensure under the bill.

Similarly, the bill permits the director to waive the examination requirement for persons who are currently licensed by another state or possession of the United States or the District of Columbia which has standards substantially equivalent to those of this State.

The director may issue a temporary license to a person who has applied for licensure and is eligible for examination. A person with a temporary license may only practice under the direct supervision of a licensed occupational therapist.

The bill provides that the director, in consultation with the council, may revoke, suspend, or refuse to issue or renew a license or impose probationary conditions upon finding: that the license was obtained by means of fraud, misrepresentation, or concealment of material facts; fraud or deceit in connection with services rendered; gross negligence, gross malpractice or gross incompetence; repeated acts of negligence, malpractice or incompetence; unprofessional conduct; that the licensee has been convicted of any crime involving moral turpitude or any crime relating adversely to the practice of occupational therapy; violations of the provisions of this bill; or that the licensee is incapable of performing the functions of a licensee in a manner consistent with the public health, safety and welfare. In addition, the bill provides that any person who violates any of its provisions shall be subject to a penalty of \$200 for the first offense and \$500 for each subsequent offense, collectible by the director pursuant to the provisions of "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 714

STATE OF NEW JERSEY

DATED: NOVEMBER 16, 1992

The Senate Commerce Committee reports favorably Senate, No. 714.

This bill provides for the regulation and licensure of occupational therapists and occupational therapy assistants by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety. The bill defines occupational therapy as "the evaluation, planning and implementation of a program of purposeful activities to develop or maintain functional skills necessary to achieve the maximal physical or mental functioning, or both, of the individual in his daily occupational performance. . . . Occupational therapy utilizes task oriented activities adapted to prevent or correct physical or emotional deficits as well as to minimize the disabling effects of those deficits on the life of the individual. Occupational therapy services include the use of specific techniques which enhance functional performance and include, but are not limited to, the evaluation and assessment of an individual's self care, lifestyle performance patterns, work skills, performance related cognitive, sensory, motor, perceptual, affective, interpersonal and social functioning, vocational and prevocational capacities, the design, fabrication and application of adaptive equipment or prosthetic or orthotic devices, excluding dental devices, the administration of standardized and nonstandardized assessments, and consultation concerning the adaptation of physical environments for the handicapped. These services are provided to individuals or groups through medical, health, educational and social systems." The bill provides that occupational therapy assistants assist in the practice of occupational therapy under the supervision of or in consultation with an occupational therapist.

The bill establishes a seven member Occupational Therapy Advisory Council in the Division of Consumer Affairs to serve as an advisory body to the director with respect to the qualifications of applicants for licensure as occupational therapists and occupational therapy assistants. The council, which is to be appointed by the Governor, with the advice and consent of the Senate, is to consist of four licensed occupational therapists, one licensed occupational therapy assistant and two public members. The bill provides that the director has the following powers and duties, which may be delegated by the director to the council:

- a. To administer, coordinate and enforce the provisions of the bill;
- b. To evaluate the qualifications of applicants for licensure as an occupational therapist or occupational therapy assistant and to approve the examinations for licensure as an occupational therapist or occupational therapy assistant;

c. To investigate allegations of practices violating the provisions of the bill;

d. To establish standards relating to professional conduct, qualifications for professional licensure, ethical standards, and disciplinary proceedings;

e. To maintain a record of every occupational therapist and occupational therapy assistant licensed in this State, their places of business, places of residence and the date and number of their licenses; and

f. To do any and all things which may be appropriate to achieve the objectives contemplated by the bill.

Under the bill's provisions, to be eligible for licensure as an occupational therapist, an applicant must:

a. Be at least 18 years of age;

b. Be of good moral character;

c. Present evidence of having successfully completed the academic requirements of an educational program in occupational therapy approved by the director, in consultation with the council, and accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association;

d. Submit to the director evidence of having successfully completed at least 24 weeks of approved supervised fieldwork experience; and

e. Successfully complete an examination administered or approved by the director, in consultation with the council.

To be eligible for licensure as an occupational therapy assistant, an applicant must:

a. Be at least 18 years of age;

b. Be of good moral character;

c. Present evidence of having successfully completed the academic requirements of an educational program in occupational therapy approved by the director, in consultation with the council;

d. Submit to the director evidence of having successfully completed at least eight weeks of approved supervised fieldwork experience; and

e. Successfully complete an examination administered or approved by the director, in consultation with the council.

Beginning 180 days after the date of enactment of the bill, only a person who is licensed as an occupational therapist or occupational therapy assistant may practice occupational therapy or represent himself to the public as an occupational therapist or occupational therapy assistant in this State. The bill requires licensure without examination of any person practicing occupational therapy or residing in this State on the effective date of this bill if that person is certified or registered prior to that effective date by a nationally recognized professional association of occupational therapists approved by the director. The bill also permits the director to waive the examination requirement if a person is certified or registered after the effective date of this bill by a nationally recognized professional association of occupational therapists approved by the director, if it is determined that the requirements for certification or registration are substantially equivalent to the requirements for licensure under the bill.

Similarly, the bill permits the director to waive the examination requirement for persons who are currently licensed by another state or possession of the United States or the District of Columbia which has standards substantially equivalent to those of this State.

The director may issue a temporary license to a person who has applied for licensure and is eligible for examination. A person with a temporary license may only practice under the direct supervision of a licensed occupational therapist.

The bill provides that the director, in consultation with the council, may revoke, suspend, or refuse to issue or renew a license or impose probationary conditions upon finding: that the license was obtained by means of fraud, misrepresentation, or concealment of material facts; fraud or deceit in connection with services rendered; gross negligence, gross malpractice or gross incompetence; repeated acts of negligence, malpractice or incompetence; unprofessional conduct; that the licensee has been convicted of any crime involving moral turpitude or any crime relating adversely to the practice of occupational therapy; violations of the provisions of this bill; or that the licensee is incapable of performing the functions of a licensee in a manner consistent with the public health, safety and welfare. In addition, the bill provides that any person who violates any of its provisions shall be subject to a penalty of \$200 for the first offense and \$500 for each subsequent offense, collectible by the director pursuant to the provisions of "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

In considering the definition of "occupational therapy" in section 3 of the bill and the provisions of section 25 of the bill, the committee does not intend occupational therapists to be allowed to perform all of the functions included within the scope of practice of physical therapy, but only those areas of physical therapy set out in the scope of practice for occupational therapy.