

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 897 Session of  
2007

INTRODUCED BY GREENLEAF, VANCE, WASHINGTON, WONDERLING, FONTANA  
AND WAUGH, MAY 22, 2007

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
MAY 22, 2007

AN ACT

1 Amending the act of June 15, 1982 (P.L.502, No.140), entitled  
2 "An act regulating the practice and licensure of occupational  
3 therapy, creating the State Board of Occupational Therapy  
4 Education and Licensure with certain powers and duties and  
5 prescribing penalties," further providing for creation of the  
6 board, for practice and referrals and for renewal of  
7 licenses; and providing for impaired professionals program.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Section 4(d) of the act of June 15, 1982  
11 (P.L.502, No.140), known as the Occupational Therapy Practice  
12 Act, is amended to read:

13 Section 4. Creation of board, appointment and term of members,  
14 officers.

15 \* \* \*

16 (d) A member of the board shall be eligible for  
17 reappointment. A member shall not be appointed to serve more  
18 than two consecutive terms. A member shall receive reimbursement  
19 for reasonable expenses incurred while engaged in the discharge  
20 of official duties, as well as a [\$30] \$60 per diem allowance.

1       \* \* \*

2       Section 2. Section 14 of the act, amended May 18, 2004  
3 (P.L.220, No.30), is amended to read:

4 Section 14. Practice and referral.

5       (a) An occupational therapist may enter a case for the  
6 purposes of providing indirect services, consultation,  
7 evaluating an individual as to the need for services and other  
8 occupational therapy services for conditions such as perceptual,  
9 cognitive, sensory integration and similar conditions.

10 Implementation of direct occupational therapy to an individual  
11 for a specific medical condition shall be based on a referral  
12 from a licensed physician, licensed optometrist [or a], licensed  
13 podiatrist[.] or licensed certified registered nurse  
14 practitioner.

15       (b) This act shall not be construed as authorization for an  
16 occupational therapist or occupational therapy assistant to  
17 practice a branch of the healing arts except as described in  
18 this act.

19 Section 3. Section 15 of the act is amended to read:

20 Section 15. Renewal of license; effect of license suspension or  
21 revocation.

22       (a) A license issued under this act shall be renewed  
23 biennially upon payment of the renewal fee prescribed in section  
24 17. It shall expire unless renewed in the manner prescribed by  
25 the regulations of the board. The board may provide for the late  
26 renewal of a license upon the payment of a late fee. A late  
27 renewal of a license shall not be granted more than four years  
28 after its expiration. A license shall be renewed after the four-  
29 year period only by complying with section 11. The board may  
30 establish additional requirements for license renewal designed

1 to assure continued competency of the applying occupational  
2 therapist or occupational therapy assistant.

3 \* \* \*

4 Section 4. The act is amended by adding a section to read:

5 Section 16.1. Impaired professionals program.

6 (a) The board, with the approval of the Commissioner of  
7 Professional and Occupational Affairs, shall appoint and fix the  
8 compensation of a professional consultant with education and  
9 experience in the identification, treatment and rehabilitation  
10 of persons with physical or mental impairments. Such consultant  
11 shall be accountable to the board and shall act as a liaison  
12 between the board and treatment programs, such as alcohol and  
13 drug treatment programs licensed by the Department of Health,  
14 psychological counseling and impaired professionals support  
15 groups approved by the board and which provide services to  
16 licensees under this act.

17 (b) The board may defer and ultimately dismiss any of the  
18 types of corrective action set forth in this act for an impaired  
19 professional so long as the licensee is progressing  
20 satisfactorily in an approved treatment program, provided that  
21 the provisions of this subsection shall not apply to a licensee  
22 who has been convicted of, pleaded guilty to or entered a plea  
23 of nolo contendere to a felonious act prohibited by the act of  
24 April 14, 1972 (P.L.233, No.64), known as "The Controlled  
25 Substance, Drug, Device and Cosmetic Act," or the conviction of  
26 a felony relating to a controlled substance in a court of law of  
27 the United States or any other state, territory or country. An  
28 approved program provider shall, upon request, disclose to the  
29 consultant such information in its possession regarding an  
30 impaired professional in treatment which the program provider is

not prohibited from disclosing by an act of this Commonwealth,  
another state or the United States. Such requirement of  
disclosure by an approved program provider shall apply in the  
case of impaired professionals who enter an agreement in  
accordance with this section, impaired professionals who are the  
subject of a board investigation or disciplinary proceeding and  
impaired professionals who voluntarily enter a treatment program  
other than under the provisions of this section but who fail to  
complete the program successfully or to adhere to an after-care  
plan developed by the program provider.

(c) An impaired professional who enrolls in an approved  
treatment program shall enter into an agreement with the board  
under which the professional's license shall be suspended or  
revoked but enforcement of that suspension or revocation may be  
stayed for the length of time the professional remains in the  
program and makes satisfactory progress, complies with the terms  
of the agreement and adheres to any limitations on his practice  
imposed by the board to protect the public. Failure to enter  
into such an agreement shall disqualify the professional from  
the impaired professional program and shall activate an  
immediate investigation and disciplinary proceeding by the  
board.

(d) If, in the opinion of such consultant after consultation  
with the provider, an impaired professional who is enrolled in  
an approved treatment program has not progressed satisfactorily,  
the consultant shall disclose to the board all information in  
his or her possession regarding such professional, and the board  
shall institute proceedings to determine if the stay of the  
enforcement of the suspension or revocation of the impaired  
professional's license shall be vacated.

1     (e) An approved program provider who makes a disclosure  
2 pursuant to this section shall not be subject to civil liability  
3 for such disclosure or its consequences.

4     (f) Any hospital or health care facility, peer or colleague  
5 who has substantial evidence that a professional has an active  
6 addictive disease for which the professional is not receiving  
7 treatment, is diverting a controlled substance or is mentally or  
8 physically incompetent to carry out the duties of his license  
9 shall make or cause to be made a report to the board: Provided,  
10 That any person or facility who acts in a treatment capacity to  
11 impaired professionals in an approved treatment program is  
12 exempt from the mandatory reporting requirement of this  
13 subsection. Any person or facility who reports pursuant to this  
14 section in good faith and without malice shall be immune from  
15 any civil or criminal liability arising from such report.  
16 Failure to provide such report within a reasonable time from  
17 receipt of knowledge of impairment shall subject the person or  
18 facility to a fine not to exceed \$1,000. The board shall levy  
19 this penalty only after affording the accused party the  
20 opportunity for a hearing, as provided in 2 Pa.C.S. (relating to  
21 administrative law and procedure).

22     Section 5. This act shall take effect in 60 days.