

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 20-0511.01 Richard Sweetman x4333

HOUSE BILL 20-1230

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A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE "OCCUPATIONAL THERAPY**
102 **PRACTICE ACT", AND, IN CONNECTION THEREWITH,**
103 **IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE**
104 **2019 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY**
105 **AGENCIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sunset Process - House Public Health Care and Human Services Committee. The bill implements, with amendments, the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
March 6, 2020

recommendations of the department of regulatory agencies (department) in its sunset review and report on the licensing of occupational therapists and occupational therapy assistants (OTAs) by the director of the division of professions and occupations in the department. Specifically:

- ! **Sections 1 and 2** of the bill continue the "Occupational Therapy Practice Act" (act) for 10 years, until 2030, rather than for 7 years, as recommended by the department;
- ! **Sections 3 and 4** modify the legislative declaration and definitions related to the scope of practice of occupational therapy;
- ! **Section 5** designates "occupational therapy consultant", "M.O.T.", "M.O.T./L.", "occupational therapy assistant", and "O.T.A." as protected titles under the act and clarifies that individuals who legally practice temporarily as occupational therapists in Colorado may use protected titles;
- ! **Sections 7, 8, and 14** reorder and amend certain provisions of the act concerning examinations and applications for licensure by occupational therapists and OTAs;
- ! **Sections 11 and 13** add certain prohibited behaviors as grounds for discipline and reorder certain provisions concerning disciplinary proceedings; and
- ! **Sections 6, 9, 10, and 12** make technical corrections throughout the act.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 12-270-120
3 as follows:

4 **12-270-120. Repeal of article - review of functions.** This article
5 270 is repealed, effective September 1, ~~2020~~ 2030. Before the repeal, the
6 director's powers, duties, and functions under this article 270 are
7 scheduled for review in accordance with section 24-34-104.

8 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **repeal**
9 (19)(a)(VII); and **add** (31)(a)(V) as follows:

10 **24-34-104. General assembly review of regulatory agencies**
11 **and functions for repeal, continuation, or reestablishment - legislative**

1 **declaration - repeal.** (19) (a) The following agencies, functions, or both,
2 are scheduled for repeal on September 1, 2020:

3 (VII) ~~The licensing of occupational therapists and occupational~~
4 ~~therapy assistants in accordance with article 270 of title 12;~~

5 (31) (a) The following agencies, functions, or both, are scheduled
6 for repeal on September 1, 2030:

7 (V) THE LICENSING OF OCCUPATIONAL THERAPISTS AND
8 OCCUPATIONAL THERAPY ASSISTANTS IN ACCORDANCE WITH ARTICLE 270
9 OF TITLE 12.

10 **SECTION 3.** In Colorado Revised Statutes, 12-270-102, **add**
11 (1)(b.3), (1)(b.5), and (1)(b.7) as follows:

12 **12-270-102. Legislative declaration.** (1) The general assembly
13 hereby finds, determines, and declares that:

14 (b.3) OCCUPATIONAL THERAPY PRACTICE CONSISTS OF CLIENT
15 MANAGEMENT, WHICH INCLUDES OCCUPATIONAL THERAPY DIAGNOSIS AND
16 PROGNOSIS TO OPTIMIZE OCCUPATIONAL PERFORMANCE;

17 (b.5) OCCUPATIONAL THERAPY INCLUDES CONTRIBUTIONS TO
18 PUBLIC HEALTH SERVICES THAT ARE INTENDED TO IMPROVE THE HEALTH
19 OF THE PUBLIC;

20 (b.7) THE PROFESSIONAL SCOPE OF OCCUPATIONAL THERAPY
21 PRACTICE EVOLVES IN RESPONSE TO INNOVATION, RESEARCH,
22 COLLABORATION, AND CHANGE IN SOCIETAL NEEDS; AND

23 **SECTION 4.** In Colorado Revised Statutes, 12-270-104, **amend**
24 (3), (4), and (6); and **add** (2.2), (2.4), (2.6), (4.8), (8.3), and (8.5) as
25 follows:

26 **12-270-104. Definitions.** As used in this article 270, unless the
27 context otherwise requires:

1 (2.2) "BEHAVIORAL HEALTH CARE SERVICES" MEANS SERVICES TO
2 FACILITATE THE PREVENTION, DIAGNOSIS, AND TREATMENT OF, AND FOR
3 THE RECOVERY FROM, MENTAL HEALTH AND SUBSTANCE USE DISORDERS
4 WITHIN THE SCOPE OF PRACTICE OF OCCUPATIONAL THERAPY.

5 (2.4) "CLIENT" MEANS AN INDIVIDUAL, GROUP, POPULATION,
6 COMMUNITY, OR ORGANIZATION THAT RECEIVES OCCUPATIONAL THERAPY
7 SERVICES.

8 (2.6) "FUNCTIONAL COGNITION" MEANS THE WAY IN WHICH AN
9 INDIVIDUAL UTILIZES AND INTEGRATES THE INDIVIDUAL'S THINKING AND
10 PROCESSING SKILLS TO ACCOMPLISH EVERYDAY ACTIVITIES IN CLINICAL
11 AND COMMUNITY LIVING ENVIRONMENTS.

12 (3) "Instrumental activities of daily living" means activities that
13 are oriented toward interacting with the environment and that may be
14 complex. ~~These activities are generally optional in nature and may be~~
15 ~~delegated to another person.~~ "Instrumental activities of daily living"
16 include care of others, care of pets, child-rearing, communication device
17 use, community mobility, financial management, health management and
18 maintenance, home establishment and management, meal preparation and
19 cleanup, safety procedures and emergency responses, and shopping.

20 (4) "Low vision rehabilitation services" means the evaluation,
21 diagnosis, management, and care of the low vision patient in visual
22 acuity, ~~and~~ visual field, AND OCULOMOTOR PERFORMANCE as it affects the
23 patient's occupational performance, including low vision rehabilitation
24 therapy, education, and interdisciplinary consultation.

25 (4.8) "OCCUPATION" MEANS AN EVERYDAY, PERSONALIZED
26 ACTIVITY IN WHICH PEOPLE PARTICIPATE AS INDIVIDUALS, FAMILIES, AND
27 COMMUNITIES TO OCCUPY TIME AND BRING MEANING AND PURPOSE TO

1 LIFE. "OCCUPATION" INCLUDES AN ACTIVITY THAT A PERSON NEEDS TO DO,
2 WANTS TO DO, OR IS EXPECTED TO DO.

3 (6) "Occupational therapy" means the therapeutic use of
4 OCCUPATIONS, INCLUDING everyday life activities with individuals, ~~or~~
5 ~~groups, for the purpose of~~ POPULATIONS, OR ORGANIZATIONS, TO SUPPORT
6 participation, PERFORMANCE, AND FUNCTION in roles and situations in
7 home, school, workplace, community, and other settings. OCCUPATIONAL
8 THERAPY IS PROVIDED FOR HABILITATION, REHABILITATION, AND THE
9 PROMOTION OF HEALTH AND WELLNESS TO PERSONS WHO HAVE, OR ARE AT
10 RISK FOR DEVELOPING, AN ILLNESS, INJURY, DISEASE, DISORDER,
11 CONDITION, IMPAIRMENT, DISABILITY, ACTIVITY LIMITATION, OR
12 PARTICIPATION RESTRICTION. OCCUPATIONAL THERAPY USES EVERYDAY
13 LIFE ACTIVITIES TO PROMOTE MENTAL HEALTH AND SUPPORT FUNCTIONING
14 IN PEOPLE WHO HAVE, OR WHO ARE AT RISK OF EXPERIENCING, A RANGE OF
15 MENTAL HEALTH DISORDERS, INCLUDING PSYCHIATRIC, BEHAVIORAL,
16 EMOTIONAL, AND SUBSTANCE USE DISORDERS. OCCUPATIONAL THERAPY
17 ADDRESSES THE PHYSICAL, COGNITIVE, PSYCHOSOCIAL,
18 SENSORY-PERCEPTUAL, AND OTHER ASPECTS OF PERFORMANCE IN A
19 VARIETY OF CONTEXTS AND ENVIRONMENTS TO SUPPORT ENGAGEMENT IN
20 OCCUPATIONS THAT AFFECT PHYSICAL HEALTH, MENTAL HEALTH,
21 WELL-BEING, AND QUALITY OF LIFE. The practice of occupational therapy
22 includes:

23 (a) ~~Methods or strategies selected to direct the process of~~
24 ~~interventions such as~~ EVALUATION OF FACTORS AFFECTING ACTIVITIES OF
25 DAILY LIVING, INSTRUMENTAL ACTIVITIES OF DAILY LIVING, REST AND
26 SLEEP, EDUCATION, WORK, PLAY, LEISURE, SOCIAL PARTICIPATION, AND
27 HEALTH MANAGEMENT, INCLUDING:

1 (I) ~~Establishment, remediation, or restoration of a skill or ability~~
2 ~~that has not yet developed or is impaired~~ CLIENT FACTORS, INCLUDING
3 BODY FUNCTIONS SUCH AS NEUROMUSCULOSKELETAL, SENSORY, VISUAL,
4 ~~PERCEPTUAL, MENTAL, COGNITIVE, AND PAIN FACTORS; BODY STRUCTURES~~
5 ~~SUCH AS CARDIOVASCULAR, DIGESTIVE, NERVOUS, INTEGUMENTARY, AND~~
6 ~~GENITOURINARY SYSTEMS; STRUCTURES RELATED TO MOVEMENT; AND A~~
7 ~~CLIENT'S VALUES, BELIEFS, AND SPIRITUALITY.~~

8 (II) ~~Compensation, modification, or adaptation of an activity or~~
9 ~~environment to enhance performance~~ HABITS, ROUTINES, ROLES, RITUALS,
10 AND BEHAVIOR PATTERNS;

11 (III) ~~Maintenance and enhancement of capabilities without which~~
12 ~~performance of everyday life activities would decline~~ PHYSICAL AND
13 SOCIAL ENVIRONMENTS; CULTURAL, PERSONAL, TEMPORAL, AND VIRTUAL
14 CONTEXTS; AND ACTIVITY DEMANDS THAT AFFECT PERFORMANCE; AND

15 (IV) ~~Promotion of health and wellness to enable or enhance~~
16 ~~performance in everyday life activities; and~~ PERFORMANCE SKILLS,
17 INCLUDING MOTOR, PRAXIS, PROCESS, SENSORY, PERCEPTUAL, ~~EMOTIONAL~~
18 ~~REGULATION, AND COMMUNICATION; SOCIAL INTERACTION SKILLS; AND~~
19 FUNCTIONAL COGNITION.

20 (V) ~~Prevention of barriers to performance, including disability~~
21 ~~prevention;~~

22 (b) ~~Evaluation of factors affecting activities of daily living,~~
23 ~~instrumental activities of daily living, education, work, play, leisure, and~~
24 ~~social participation, including~~ METHODS OR APPROACHES SELECTED TO
25 DIRECT THE PROCESS OF INTERVENTIONS SUCH AS:

26 (I) ~~Client factors, including body functions such as~~
27 ~~neuromuscular, sensory, visual, perceptual, and cognitive functions, and~~

1 ~~body structures such as cardiovascular, digestive, integumentary, and~~
2 ~~genitourinary systems~~ ESTABLISHMENT, REMEDIATION, OR RESTORATION
3 OF A SKILL OR ABILITY THAT HAS NOT YET DEVELOPED, IS IMPAIRED, OR IS
4 IN DECLINE;

5 (II) ~~Habits, routines, roles, and behavior patterns~~ COMPENSATION,
6 MODIFICATION, OR ADAPTATION OF AN ACTIVITY OR ENVIRONMENT TO
7 ENHANCE PERFORMANCE OR TO PREVENT INJURIES, DISORDERS, OR OTHER
8 CONDITIONS;

9 (III) ~~Cultural, physical, environmental, social, and spiritual~~
10 ~~contexts and activity demands that affect performance; and~~
11 MAINTENANCE AND ENHANCEMENT OF CAPABILITIES WITHOUT WHICH
12 PERFORMANCE IN EVERYDAY LIFE ACTIVITIES WOULD DECLINE;

13 (IV) ~~Performance skills, including motor, process, and~~
14 ~~communication and interaction skills~~ PROMOTION OF HEALTH AND
15 WELLNESS, INCLUDING THE USE OF SELF-MANAGEMENT STRATEGIES, TO
16 ENABLE OR ENHANCE PERFORMANCE IN EVERYDAY LIFE ACTIVITIES; AND

17 (V) PREVENTION OF BARRIERS TO PERFORMANCE AND
18 PARTICIPATION, INCLUDING INJURY AND DISABILITY PREVENTION;

19 (c) Interventions and procedures to promote or enhance safety and
20 performance in activities of daily living, instrumental activities of daily
21 living, REST AND SLEEP, education, work, play, leisure, ~~and~~ social
22 participation, AND HEALTH MANAGEMENT, including:

23 (I) Therapeutic use of occupations, exercises, and activities;

24 (II) Training in self-care; self-management; SELF-REGULATION;
25 HEALTH MANAGEMENT AND MAINTENANCE; home management; ~~and~~
26 community, VOLUNTEER, and work INTEGRATION AND reintegration;
27 SCHOOL ACTIVITIES; AND WORK PERFORMANCE;

1 (III) Identification, development, remediation, or compensation
2 of physical, cognitive, ~~neuromuscular~~ NEUROMUSCULOSKELETAL, sensory,
3 VISUAL, PERCEPTUAL, AND MENTAL functions; sensory processing;
4 FUNCTIONAL COGNITION; PAIN TOLERANCE AND MANAGEMENT;
5 DEVELOPMENTAL SKILLS; and behavioral skills;

6 (IV) Therapeutic use of self, including a person's personality,
7 insights, perceptions, and judgments, as part of the therapeutic process;

8 (V) Education and training of individuals, including family
9 members, caregivers, GROUPS, POPULATIONS, and others;

10 (VI) Care coordination, case management, and transition services;
11 DIRECT, INDIRECT, AND CONSULTATIVE CARE; ADVOCACY AND
12 SELF-ADVOCACY; AND OTHER SERVICE DELIVERY METHODS;

13 (VII) Consultative services to INDIVIDUALS, groups, programs,
14 organizations, or communities;

15 (VIII) Modification of environments such as home, work, school,
16 or community and adaptation of processes, including the application of
17 ergonomic principles;

18 (IX) Assessment, design, fabrication, application, fitting, and
19 training in assistive technology and adaptive and orthotic devices and
20 training in SEATING AND POSITIONING AND IN the use of prosthetic
21 devices, excluding glasses, contact lenses, or other prescriptive devices
22 to correct vision unless prescribed by an optometrist;

23 (X) Assessment, recommendation, and training in techniques to
24 enhance functional mobility, including ~~wheelchair management~~ COMPLEX
25 SEATING AND MANAGEMENT OF WHEELCHAIRS AND OTHER MOBILITY
26 DEVICES;

27 (XI) Driver rehabilitation and community mobility;

1 (XII) Management of feeding, eating, and swallowing to enable
2 SUPPORT eating and feeding performance NECESSARY FOR NUTRITION,
3 SOCIAL PARTICIPATION, OR OTHER HEALTH OR WELLNESS
4 CONSIDERATIONS;

5 (XIII) Application of physical agent modalities and therapeutic
6 procedures such as wound management; techniques to enhance,
7 MAINTAIN, OR PREVENT THE DECLINE OF sensory, perceptual, and
8 PSYCHOSOCIAL, OR cognitive processing; MANAGEMENT OF PAIN; and
9 manual techniques to enhance, MAINTAIN, OR PREVENT THE DECLINE OF
10 performance skills; and

11 (XIV) The use of telehealth, TELEREHABILITATION, AND
12 TELETHERAPY pursuant to rules as may be adopted by the director;

13 (XV) LOW VISION REHABILITATION SERVICES AND VISION THERAPY
14 SERVICES UNDER THE REFERRAL, PRESCRIPTION, SUPERVISION, OR
15 COMANAGEMENT OF AN OPHTHALMOLOGIST OR OPTOMETRIST;

16 (XVI) FACILITATION OF THE OCCUPATIONAL PERFORMANCE OF
17 GROUPS, POPULATIONS, OR ORGANIZATIONS THROUGH THE MODIFICATION
18 OF ENVIRONMENTS AND THE ADAPTATION OF PROCESSES;

19 (XVII) SENSORY-BASED INTERVENTIONS INCLUDING EQUIPMENT,
20 ENVIRONMENT, AND ROUTINE ADAPTATIONS THAT SUPPORT OPTIMAL
21 SENSORY INTEGRATION AND PROCESSING; AND

22 (XVIII) BEHAVIORAL HEALTH CARE SERVICES TO ENHANCE,
23 MAINTAIN, OR PREVENT THE DECLINE OF OCCUPATIONAL PERFORMANCE
24 WITHIN THE SCOPE OF PRACTICE OF OCCUPATIONAL THERAPY.

25 (8.3) "TELEHEALTH" MEANS THE USE OF ELECTRONIC
26 INFORMATION AND TELECOMMUNICATIONS TECHNOLOGY TO SUPPORT AND
27 PROMOTE ACCESS TO CLINICAL HEALTH CARE, CLIENT AND PROFESSIONAL

1 HEALTH-RELATED EDUCATION, PUBLIC HEALTH, AND HEALTH
2 ADMINISTRATION.

3 (8.5) "TELEREHABILITATION" OR "TELE THERAPY" MEANS THE
4 DELIVERY OF REHABILITATION AND HABILITATION SERVICES VIA
5 INFORMATION AND COMMUNICATION TECHNOLOGIES, COMMONLY
6 REFERRED TO AS "TELEHEALTH" TECHNOLOGIES.

7 **SECTION 5.** In Colorado Revised Statutes, **amend** 12-270-105
8 as follows:

9 **12-270-105. Use of titles restricted.** (1) Only a person licensed
10 as an occupational therapist IN THIS STATE OR WHO IS A LEGALLY
11 QUALIFIED OCCUPATIONAL THERAPIST FROM ANOTHER STATE OR COUNTRY
12 PROVIDING SERVICES ON BEHALF OF A TEMPORARILY ABSENT
13 OCCUPATIONAL THERAPIST LICENSED IN THIS STATE, IN ACCORDANCE WITH
14 SECTION 12-270-110 (1)(d), may use the title "occupational therapist
15 licensed", "licensed occupational therapist", "occupational therapist", or
16 "doctor of occupational therapy", or "OCCUPATIONAL THERAPY
17 CONSULTANT"; use the abbreviation "O.T.", "M.O.T.", "O.T.D.",
18 "O.T.R.", "O.T./L.", "O.T.D./L.", "M.O.T./L.", or "O.T.R./L."; or USE any
19 other generally accepted terms, letters, or figures that indicate that the
20 person is an occupational therapist.

21 (2) Only a person licensed as an occupational therapy assistant IN
22 THIS STATE may use the title "OCCUPATIONAL THERAPY ASSISTANT",
23 "occupational therapy assistant licensed", or "licensed occupational
24 therapy assistant"; use the ~~abbreviation "O.T.A./L." or "C.O.T.A./L."~~
25 ABBREVIATION "O.T.A.", "O.T.A./L.", "C.O.T.A.", OR "C.O.T.A./L."; or
26 use any other generally accepted terms, letters, or figures indicating that
27 the person is an occupational therapy assistant.

1 **SECTION 6.** In Colorado Revised Statutes, 12-270-106, **amend**
2 (1)(a) and (2) as follows:

3 **12-270-106. License required - occupational therapists -**
4 **occupational therapy assistants.** (1) (a) On and after June 1, 2014,
5 except as otherwise provided in this article 270, a person shall not
6 practice occupational therapy or represent ~~himself or herself as being able~~
7 ~~to~~ THAT THE PERSON MAY practice occupational therapy in this state
8 without possessing a valid license issued by the director in accordance
9 with this article 270 and rules adopted pursuant to this article 270.

10 (2) On and after June 1, 2014, except as otherwise provided in this
11 article 270, a person shall not practice as an occupational therapy assistant
12 or represent ~~himself or herself as being able to~~ THAT THE PERSON MAY
13 practice as an occupational therapy assistant in this state without
14 possessing a valid license issued by the director in accordance with this
15 article 270 and any rules adopted under this article 270.

16 **SECTION 7.** In Colorado Revised Statutes, 12-270-107, **amend**
17 (2), (3), and (5)(c) as follows:

18 **12-270-107. Licensure of occupational therapists - application**
19 **- qualifications - rules.** (2) [Similar to subsection (3)] **Application.**
20 ~~(a) When an applicant has fulfilled the requirements of subsection (1) of~~
21 ~~this section, the applicant may apply for examination and licensure upon~~
22 ~~payment of a fee in an amount determined by the director. A person who~~
23 ~~fails an examination may apply for reexamination upon payment of a fee~~
24 ~~in an amount determined by the director~~ **Examination.** EACH APPLICANT
25 MUST PASS A NATIONALLY RECOGNIZED EXAMINATION, APPROVED BY THE
26 DIRECTOR, THAT MEASURES THE MINIMUM LEVEL OF COMPETENCE
27 NECESSARY FOR PUBLIC HEALTH, SAFETY, AND WELFARE.

1 (b) The application shall be in the form and manner designated by
2 the director.

3 (3) ~~[Similar to subsection (2)] Examination.~~ Each applicant shall
4 pass a nationally recognized examination approved by the director that
5 measures the minimum level of competence necessary for public health,
6 safety, and welfare **Application.** AFTER AN APPLICANT HAS FULFILLED
7 THE REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION, THE
8 APPLICANT MAY APPLY FOR LICENSURE UPON PAYMENT OF A FEE IN AN
9 AMOUNT DETERMINED BY THE DIRECTOR. THE DIRECTOR SHALL
10 DESIGNATE THE FORM AND MANNER OF THE APPLICATION.

11 (5) **Licensure by endorsement.** (c) Upon receipt of all
12 documents required by subsections (5)(a) and (5)(b) of this section, the
13 director shall review the application and make a determination of the
14 applicant's ~~qualification~~ QUALIFICATIONS to be licensed by endorsement.

15 **SECTION 8.** In Colorado Revised Statutes, 12-270-108, **amend**
16 (2), (3), and (5)(c) as follows:

17 **12-270-108. Occupational therapy assistants - licensure -**
18 **application - qualifications - rules.** (2) **[Similar to subsection**
19 **(3)] Application.** (a) ~~When an applicant has fulfilled the requirements of~~
20 ~~subsection (1) of this section, the applicant may apply for licensure upon~~
21 ~~payment of a fee in an amount determined by the director~~ **Examination.**
22 EACH APPLICANT MUST PASS A NATIONALLY RECOGNIZED EXAMINATION,
23 APPROVED BY THE DIRECTOR, THAT MEASURES THE MINIMUM LEVEL OF
24 COMPETENCE NECESSARY FOR PUBLIC HEALTH, SAFETY, AND WELFARE.

25 ~~(b) The applicant must submit an application in the form and~~
26 ~~manner designated by the director.~~

27 (3) **[Similar to subsection (2)] Examination.** Each applicant must

1 ~~pass a nationally recognized examination, approved by the director, that~~
2 ~~measures the minimum level of competence necessary for public health,~~
3 ~~safety, and welfare~~ **Application.** AFTER AN APPLICANT HAS FULFILLED
4 THE REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION, THE
5 APPLICANT MAY APPLY FOR LICENSURE UPON PAYMENT OF A FEE IN AN
6 AMOUNT DETERMINED BY THE DIRECTOR. THE DIRECTOR SHALL
7 DESIGNATE THE FORM AND MANNER OF THE APPLICATION.

8 (5) **Licensure by endorsement.** (c) Upon receipt of all
9 documents required by subsections (5)(a) and (5)(b) of this section, the
10 director shall review the application and make a determination of the
11 applicant's ~~qualification~~ QUALIFICATIONS to be licensed by endorsement
12 as an occupational therapy assistant.

13 **SECTION 9.** In Colorado Revised Statutes, 12-270-110, **amend**
14 (1)(a), (1)(b), and (1)(c); and **add** (1)(c.5) as follows:

15 **12-270-110. Scope of article - exclusions.** (1) This article 270
16 does not prevent or restrict the practice, services, or activities of:

17 (a) A person licensed or otherwise regulated in this state by any
18 other law from engaging in ~~his or her~~ THE PERSON'S profession or
19 occupation as defined in the part or article under which ~~he or she~~ THE
20 PERSON is licensed;

21 (b) A person pursuing a course of study leading to a degree in
22 occupational therapy at an educational institution with an accredited
23 occupational therapy program if that person is designated by a title that
24 clearly indicates ~~his or her~~ THE PERSON'S status as a student and if ~~he or~~
25 ~~she~~ THE PERSON acts under appropriate instruction and supervision;

26 (c) A person fulfilling the supervised fieldwork experience
27 requirements of section 12-270-107 (1) if the experience constitutes a part

1 of the experience necessary to meet the requirement of section
2 12-270-107 (1) and the person acts under appropriate supervision; or

3 (c.5) A PERSON FULFILLING AN OCCUPATIONAL THERAPY
4 DOCTORAL CAPSTONE EXPERIENCE IF THE PERSON ACTS UNDER
5 APPROPRIATE SUPERVISION; OR

6 **SECTION 10.** In Colorado Revised Statutes, **amend** 12-270-111
7 as follows:

8 **12-270-111. Limitations on authority.** (1) Nothing in this article
9 270 shall be construed to authorize an occupational therapist to engage in
10 the practice of medicine, as defined in section 12-240-107; ~~physical~~
11 ~~therapy, as defined in article 285 of this title 12; vision therapy services~~
12 ~~or low vision rehabilitation services, except under the referral,~~
13 ~~prescription, supervision, or comanagement of an ophthalmologist or~~
14 ~~optometrist; OPTOMETRY, AS DESCRIBED IN ARTICLE 275 OF THIS TITLE 12;~~
15 or any other form of healing except as authorized by this article 270.

16 (2) NOTHING IN THIS SECTION PREVENTS AN OCCUPATIONAL
17 THERAPIST FROM MAKING AN OCCUPATIONAL THERAPY DIAGNOSIS WITHIN
18 THE OCCUPATIONAL THERAPIST'S SCOPE OF PRACTICE.

19 **SECTION 11.** In Colorado Revised Statutes, 12-270-113, **amend**
20 (1) introductory portion, (1)(a), and (1)(b) as follows:

21 **12-270-113. Protection of medical records - licensee's**
22 **obligations - verification of compliance - noncompliance grounds for**
23 **discipline - rules.** (1) Each occupational therapist and occupational
24 therapy assistant responsible for ~~patient~~ CLIENT records shall develop a
25 written plan to ensure the security of ~~patient~~ CLIENT medical records. The
26 plan must address at least the following:

27 (a) The storage and proper disposal of ~~patient~~ CLIENT medical

1 records;

2 (b) The disposition of ~~patient~~ CLIENT medical records if the
3 licensee dies, retires, or otherwise ceases to practice or provide
4 occupational therapy services to ~~patients~~ CLIENTS; and

5 **SECTION 12.** In Colorado Revised Statutes, 12-270-114, **amend**
6 (1), (2)(c), (2)(d)(II), (2)(l), and (5); **repeal** (6); and **add** (2)(n), (2)(o),
7 and (2)(p) as follows:

8 **12-270-114. Grounds for discipline - disciplinary proceedings**
9 **- definitions - judicial review.** (1) The director may take disciplinary
10 action against a licensee if the director finds that the licensee has
11 represented ~~himself or herself as~~ THAT THE LICENSEE IS a licensed
12 occupational therapist or occupational therapy assistant after the
13 expiration, suspension, or revocation of ~~his or her~~ THE LICENSEE'S license.

14 (2) The director may take disciplinary or other action as
15 authorized in section 12-20-404 against, or issue a cease-and-desist order
16 under the circumstances and in accordance with the procedures specified
17 in section 12-20-405 to, a licensee in accordance with this section, upon
18 proof that the licensee:

19 (c) Is an excessive or habitual user or abuser of alcohol or
20 habit-forming drugs or is a habitual user of a controlled substance, as
21 defined in section 18-18-102 (5), or other drugs having similar effects;
22 except that the director has the discretion not to discipline the licensee if
23 ~~he or she~~ THE LICENSEE is participating in good faith in a program to end
24 the use or abuse that the director has approved;

25 (d) (II) Has failed to act within the limitations created by a
26 physical illness, physical condition, or behavioral, mental health, or
27 substance use disorder that renders the person unable to practice

1 occupational therapy with reasonable skill and safety or that may
2 endanger the health or safety of persons under ~~his or her~~ THE LICENSEE'S
3 care; or

4 (l) Has failed to provide adequate or proper supervision of a
5 licensed occupational therapy assistant, of an aide, or of any unlicensed
6 person in the occupational therapy practice; ~~or~~

7 (n) HAS FAILED TO MAKE ESSENTIAL ENTRIES ON CLIENT RECORDS
8 OR FALSIFIED OR MADE INCORRECT ENTRIES OF AN ESSENTIAL NATURE ON
9 PATIENT RECORDS;

10 (o) HAS COMMITTED ABUSE OF HEALTH INSURANCE AS SET FORTH
11 IN SECTION 18-13-119 (3); OR

12 (p) HAS COMMITTED A FRAUDULENT INSURANCE ACT, AS
13 DESCRIBED IN SECTION 10-1-128.

14 (5) (a) THE DIRECTOR SHALL CONDUCT disciplinary proceedings
15 ~~shall be conducted~~ in accordance with section 12-20-403 and article 4 of
16 title 24. The director ~~has the authority to~~ MAY exercise all powers and
17 duties conferred by this article 270 during the disciplinary proceedings.

18 (b) **[Similar to subsection (6)(a)]** NO LATER THAN THIRTY DAYS
19 AFTER THE DATE OF THE DIRECTOR'S ACTION, THE DIRECTOR SHALL NOTIFY
20 A LICENSEE DISCIPLINED UNDER THIS SECTION OF THE ACTION TAKEN, THE
21 SPECIFIC CHARGES GIVING RISE TO THE ACTION, AND THE LICENSEE'S RIGHT
22 TO REQUEST A HEARING ON THE ACTION TAKEN. THE DIRECTOR SHALL
23 PROVIDE THE NOTICE BY SENDING A CERTIFIED LETTER TO THE MOST
24 RECENT ADDRESS PROVIDED TO THE DIRECTOR BY THE LICENSEE.

25 (c) **[Similar to subsection (6)(b)]** WITHIN THIRTY DAYS AFTER THE
26 DIRECTOR SENDS THE NOTICE DESCRIBED IN SUBSECTION (5)(b) OF THIS
27 SECTION, THE LICENSEE MAY FILE A WRITTEN REQUEST WITH THE

1 DIRECTOR FOR A HEARING ON THE ACTION TAKEN. UPON RECEIPT OF THE
2 REQUEST, THE DIRECTOR SHALL GRANT A HEARING TO THE LICENSEE. IF
3 THE LICENSEE FAILS TO FILE A WRITTEN REQUEST FOR A HEARING WITHIN
4 THIRTY DAYS, THE ACTION OF THE DIRECTOR BECOMES FINAL ON THAT
5 DATE.

6 (d) **[Similar to subsection (6)(c)]** A LICENSEE'S FAILURE TO
7 APPEAR AT A HEARING WITHOUT GOOD CAUSE IS DEEMED A WITHDRAWAL
8 OF THE LICENSEE'S REQUEST FOR A HEARING, AND THE DIRECTOR'S ACTION
9 BECOMES FINAL ON THAT DATE. THE DIRECTOR'S FAILURE TO APPEAR AT
10 A HEARING WITHOUT GOOD CAUSE IS DEEMED CAUSE TO DISMISS THE
11 PROCEEDING.

12 ~~(6) (a) No later than thirty days following the date of the director's~~
13 ~~action, a licensee disciplined under this section shall be notified by the~~
14 ~~director, by a certified letter to the most recent address provided to the~~
15 ~~director by the licensee, of the action taken, the specific charges giving~~
16 ~~rise to the action, and the licensee's right to request a hearing on the~~
17 ~~action taken.~~

18 ~~(b) Within thirty days after notification is sent by the director, the~~
19 ~~licensee may file a written request with the director for a hearing on the~~
20 ~~action taken. Upon receipt of the request, the director shall grant a~~
21 ~~hearing to the licensee. If the licensee fails to file a written request for a~~
22 ~~hearing within thirty days, the action of the director shall be final on that~~
23 ~~date.~~

24 ~~(c) Failure of the licensee to appear at the hearing without good~~
25 ~~cause shall be deemed a withdrawal of his or her request for a hearing,~~
26 ~~and the director's action shall be final on that date. Failure, without good~~
27 ~~cause, of the director to appear at the hearing shall be deemed cause to~~

1 ~~dismiss the proceeding.~~

2 **SECTION 13.** In Colorado Revised Statutes, 12-270-117, **amend**

3 (1) as follows:

4 **12-270-117. Mental and physical examination of licensees.**

5 (1) If the director has reasonable cause to believe that a licensee is unable
6 to practice with reasonable skill and safety, the director may order the
7 licensee to take a mental or physical examination administered by a
8 physician or other licensed health care professional designated by the
9 director. Except where due to circumstances beyond the licensee's control,
10 if the licensee fails or refuses to undergo a mental or physical
11 examination, the director may suspend the licensee's license until the
12 director has made a determination of the licensee's fitness to practice. The
13 director shall proceed with an order for examination and shall make ~~his~~
14 ~~or her~~ A determination in a timely manner.

15 **SECTION 14.** In Colorado Revised Statutes, 10-1-128, **amend**

16 (1) as follows:

17 **10-1-128. Fraudulent insurance acts - immunity for furnishing**
18 **information relating to suspected insurance fraud - legislative**

19 **declaration.** (1) For purposes of this title 10, articles 40 to 47 of title 8,
20 articles 200, 215, 220, 240, 245, 255, **270**, 275, 285, 290, and 300 of title
21 12, and article 20 of title 44, a fraudulent insurance act is committed if a
22 person knowingly and with intent to defraud presents, causes to be
23 presented, or prepares with knowledge or belief that it will be presented
24 to or by an insurer, a purported insurer, or any producer thereof any
25 written statement as part or in support of an application for the issuance
26 or the rating of an insurance policy or a claim for payment or other
27 benefit pursuant to an insurance policy that the person knows to contain

1 false information concerning any fact material thereto or if the person
2 knowingly and with intent to defraud or mislead conceals information
3 concerning any fact material thereto. For purposes of this section, "written
4 statement" includes a ~~patient~~ CLIENT medical record as such term is
5 defined in section 18-4-412 (2)(a) and any bill for medical services.

6 **SECTION 15.** In Colorado Revised Statutes, 12-270-112, **amend**
7 (1)(b) introductory portion and (1)(b)(III) as follows:

8 **12-270-112. Continuing professional competency - definition.**

9 (1) (b) The director shall establish a continuing professional competency
10 program that includes: ~~at a minimum, the following elements:~~

11 (III) Periodic demonstration of knowledge and skills through
12 documentation of activities necessary to ensure at least minimal ability to
13 safely practice the profession; except that an occupational therapist or
14 occupational therapy assistant licensed pursuant to this article 270 need
15 not retake the examination required by section 12-270-107 ~~(3)~~ (2) or
16 12-270-108 ~~(3)~~ (2), respectively, for initial licensure.

17 **SECTION 16. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2020 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.