

## CHAPTER 4

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**PROFESSIONS AND OCCUPATIONS**


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**SENATE BILL 21-003**

BY SENATOR(S) Fields and Holbert, Bridges, Buckner, Coleman, Cooke, Gardner, Ginal, Hisey, Jaquez Lewis, Kirkmeyer, Lee, Liston, Lundeen, Priola, Rankin, Scott, Smallwood, Story, Winter, Woodward, Zenzinger, Garcia;  
 also REPRESENTATIVE(S) Ortiz and Larson, Arndt, Bacon, Burnett, Bird, Caraveo, Daugherty, Duran, Esgar, Exum, Froelich, Gonzales-Gutierrez, Gray, Hooton, Jackson, Kipp, McCluskie, McLachlan, Michaelson Jenet, Mullica, Pico, Roberts, Sandridge, Snyder, Sullivan, Tipper, Titone, Valdez A., Valdez D., Weissman, Woodrow, Young.

**AN ACT**

**CONCERNING THE RECREATION AND REENACTMENT, WITH AMENDMENTS, OF THE "OCCUPATIONAL THERAPY PRACTICE ACT", AND, IN CONNECTION THEREWITH, REESTABLISHING THE LICENSING FUNCTIONS OF THE DIRECTOR OF THE DIVISION OF PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES REGARDING OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS.**

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

**SECTION 1.** In Colorado Revised Statutes, **recreate and reenact, with amendments**, article 270 of title 12 as follows:

**12-270-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 270 IS THE "OCCUPATIONAL THERAPY PRACTICE ACT".

**12-270-102. Legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(a) OCCUPATIONAL THERAPY SERVICES ARE PROVIDED FOR THE PURPOSE OF PROMOTING HEALTH AND WELLNESS TO THOSE WHO HAVE OR ARE AT RISK FOR DEVELOPING AN ILLNESS, INJURY, DISEASE, DISORDER, CONDITION, IMPAIRMENT, DISABILITY, ACTIVITY LIMITATION, OR PARTICIPATION RESTRICTION;

(b) OCCUPATIONAL THERAPY ADDRESSES THE PHYSICAL, COGNITIVE, PSYCHOSOCIAL, SENSORY, AND OTHER ASPECTS OF PERFORMANCE IN A VARIETY OF CONTEXTS TO SUPPORT ENGAGEMENT IN EVERYDAY LIFE ACTIVITIES THAT AFFECT HEALTH, WELL-BEING, AND QUALITY OF LIFE;

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

(c) OCCUPATIONAL THERAPY PRACTICE CONSISTS OF CLIENT MANAGEMENT, WHICH INCLUDES OCCUPATIONAL THERAPY DIAGNOSIS AND PROGNOSIS TO OPTIMIZE OCCUPATIONAL PERFORMANCE;

(d) OCCUPATIONAL THERAPY INCLUDES CONTRIBUTIONS TO PUBLIC HEALTH SERVICES THAT ARE INTENDED TO IMPROVE THE HEALTH OF THE PUBLIC;

(e) THE PROFESSIONAL SCOPE OF OCCUPATIONAL THERAPY PRACTICE EVOLVES IN RESPONSE TO INNOVATION, RESEARCH, COLLABORATION, AND CHANGE IN SOCIETAL NEEDS; AND

(f) THIS ARTICLE 270 IS NECESSARY TO:

(I) SAFEGUARD THE PUBLIC HEALTH, SAFETY, AND WELFARE; AND

(II) PROTECT THE PUBLIC FROM INCOMPETENT, UNETHICAL, OR UNAUTHORIZED PERSONS.

(2) THE GENERAL ASSEMBLY FURTHER DETERMINES THAT IT IS THE PURPOSE OF THIS ARTICLE 270 TO REGULATE PERSONS WHO ARE REPRESENTING THEMSELVES AS OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS AND WHO ARE PERFORMING SERVICES THAT CONSTITUTE OCCUPATIONAL THERAPY.

**12-270-103. Applicability of common provisions.** ARTICLES 1, 20, AND 30 OF THIS TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 270.

**12-270-104. Definitions - rules.** AS USED IN THIS ARTICLE 270, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ACTIVITIES OF DAILY LIVING" MEANS ACTIVITIES THAT ARE ORIENTED TOWARD TAKING CARE OF ONE'S OWN BODY, SUCH AS BATHING, SHOWERING, BOWEL AND BLADDER MANAGEMENT, DRESSING, EATING, FEEDING, FUNCTIONAL MOBILITY, PERSONAL DEVICE CARE, PERSONAL HYGIENE AND GROOMING, SEXUAL ACTIVITY, SLEEP, REST, AND TOILET HYGIENE.

(2) "AIDE" MEANS A PERSON WHO IS NOT LICENSED BY THE DIRECTOR AND WHO PROVIDES SUPPORTIVE SERVICES TO OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS.

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

(4) "CLIENT" MEANS AN INDIVIDUAL, GROUP, POPULATION, COMMUNITY, OR ORGANIZATION THAT RECEIVES OCCUPATIONAL THERAPY SERVICES.

(5) "FUNCTIONAL COGNITION" MEANS THE WAY IN WHICH AN INDIVIDUAL UTILIZES AND INTEGRATES THE INDIVIDUAL'S THINKING AND PROCESSING SKILLS TO ACCOMPLISH EVERYDAY ACTIVITIES.

(6) "INSTRUMENTAL ACTIVITIES OF DAILY LIVING" MEANS ACTIVITIES THAT ARE ORIENTED TOWARD INTERACTING WITH THE ENVIRONMENT AND THAT MAY BE COMPLEX. "INSTRUMENTAL ACTIVITIES OF DAILY LIVING" INCLUDE CARE OF OTHERS, CARE OF PETS, CHILD-REARING, COMMUNICATION DEVICE USE, COMMUNITY MOBILITY, FINANCIAL MANAGEMENT, HEALTH MANAGEMENT AND MAINTENANCE, HOME ESTABLISHMENT AND MANAGEMENT, MEAL PREPARATION AND CLEANUP, RELIGIOUS AND SPIRITUAL EXPRESSION, SAFETY PROCEDURES AND EMERGENCY RESPONSES, AND SHOPPING.

(7) "LOW-VISION REHABILITATION SERVICES" MEANS THE EVALUATION, DIAGNOSIS, MANAGEMENT, AND CARE OF THE LOW-VISION CLIENT IN VISUAL ACUITY, VISUAL FIELD, AND OCULOMOTOR PERFORMANCE AS IT AFFECTS THE CLIENT'S OCCUPATIONAL PERFORMANCE, INCLUDING LOW-VISION REHABILITATION THERAPY, EDUCATION, AND INTERDISCIPLINARY CONSULTATION.

(8) "OCCUPATION" MEANS AN EVERYDAY, PERSONALIZED ACTIVITY IN WHICH PEOPLE PARTICIPATE AS INDIVIDUALS, FAMILIES, AND COMMUNITIES TO OCCUPY TIME, EARN INCOME, AND BRING MEANING AND PURPOSE TO LIFE. "OCCUPATION" INCLUDES AN ACTIVITY THAT A PERSON NEEDS TO DO, WANTS TO DO, OR IS EXPECTED TO DO.

(9) "OCCUPATIONAL THERAPIST" MEANS A PERSON LICENSED TO PRACTICE OCCUPATIONAL THERAPY UNDER THIS ARTICLE 270.

(10) "OCCUPATIONAL THERAPY" MEANS THE THERAPEUTIC USE OF OCCUPATIONS, INCLUDING EVERYDAY LIFE ACTIVITIES WITH INDIVIDUALS, GROUPS, POPULATIONS, OR ORGANIZATIONS, TO SUPPORT PARTICIPATION, PERFORMANCE, AND FUNCTION IN ROLES AND SITUATIONS IN HOME, SCHOOL, WORKPLACE, COMMUNITY, AND OTHER SETTINGS. OCCUPATIONAL THERAPY IS PROVIDED FOR HABILITATION, REHABILITATION, AND THE PROMOTION OF HEALTH AND WELLNESS TO PERSONS WHO HAVE, OR ARE AT RISK FOR DEVELOPING, AN ILLNESS, INJURY, DISEASE, DISORDER, CONDITION, IMPAIRMENT, DISABILITY, ACTIVITY LIMITATION, OR PARTICIPATION RESTRICTION. OCCUPATIONAL THERAPY USES EVERYDAY LIFE ACTIVITIES TO PROMOTE MENTAL HEALTH AND SUPPORT FUNCTIONING IN PEOPLE WHO HAVE, OR WHO ARE AT RISK OF EXPERIENCING, A RANGE OF MENTAL HEALTH DISORDERS, INCLUDING PSYCHIATRIC, BEHAVIORAL, EMOTIONAL, AND SUBSTANCE USE DISORDERS. OCCUPATIONAL THERAPY ADDRESSES THE PHYSICAL, COGNITIVE, PSYCHOSOCIAL, SENSORY, PERCEPTUAL, AND OTHER ASPECTS OF PERFORMANCE IN A VARIETY OF CONTEXTS AND ENVIRONMENTS TO SUPPORT ENGAGEMENT IN OCCUPATIONS THAT AFFECT PHYSICAL HEALTH, MENTAL HEALTH, WELL-BEING, AND QUALITY OF LIFE. THE PRACTICE OF OCCUPATIONAL THERAPY INCLUDES:

(a) EVALUATION OF FACTORS AFFECTING ACTIVITIES OF DAILY LIVING, INSTRUMENTAL ACTIVITIES OF DAILY LIVING, REST AND SLEEP, EDUCATION, WORK, PLAY, LEISURE, SOCIAL PARTICIPATION, AND HEALTH MANAGEMENT, INCLUDING:

(I) CLIENT FACTORS, INCLUDING BODY FUNCTIONS SUCH AS SENSORY, VISUAL, PERCEPTUAL, MENTAL, COGNITIVE, AND PAIN FACTORS; BODY STRUCTURES SUCH AS CARDIOVASCULAR, DIGESTIVE, NERVOUS, INTEGUMENTARY, AND GENITOURINARY SYSTEMS; NEUROMUSCULOSKELETAL AND MOVEMENT-RELATED FUNCTIONS; AND VALUES, BELIEFS, AND SPIRITUALITY;

(II) HABITS, ROUTINES, ROLES, RITUALS, AND BEHAVIOR PATTERNS;

(III) PHYSICAL AND SOCIAL ENVIRONMENTS; CULTURAL, PERSONAL, TEMPORAL, AND VIRTUAL CONTEXTS; AND ACTIVITY DEMANDS THAT AFFECT PERFORMANCE; AND

(IV) PERFORMANCE SKILLS, INCLUDING MOTOR, PRAXIS, PROCESS, EMOTIONAL REGULATION, AND COMMUNICATION; SOCIAL INTERACTION SKILLS; AND FUNCTIONAL COGNITION;

(b) METHODS OR APPROACHES SELECTED TO DIRECT THE PROCESS OF INTERVENTIONS, SUCH AS:

(I) ESTABLISHMENT, REMEDIATION, OR RESTORATION OF A SKILL OR ABILITY THAT HAS NOT YET DEVELOPED, IS IMPAIRED, OR IS IN DECLINE;

(II) COMPENSATION, MODIFICATION, OR ADAPTATION OF AN ACTIVITY OR ENVIRONMENT TO ENHANCE PERFORMANCE OR TO PREVENT INJURIES, DISORDERS, OR OTHER CONDITIONS;

(III) MAINTENANCE AND ENHANCEMENT OF CAPABILITIES WITHOUT WHICH PERFORMANCE IN EVERYDAY LIFE ACTIVITIES WOULD DECLINE;

(IV) PROMOTION OF HEALTH AND WELLNESS, INCLUDING THE USE OF SELF-MANAGEMENT STRATEGIES, TO ENABLE OR ENHANCE PERFORMANCE IN EVERYDAY LIFE ACTIVITIES; AND

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

(c) INTERVENTIONS AND PROCEDURES TO PROMOTE OR ENHANCE SAFETY AND PERFORMANCE IN ACTIVITIES OF DAILY LIVING, INSTRUMENTAL ACTIVITIES OF DAILY LIVING, REST AND SLEEP, EDUCATION, WORK, PLAY, LEISURE, SOCIAL PARTICIPATION, AND HEALTH MANAGEMENT, INCLUDING:

(I) THERAPEUTIC USE OF OCCUPATIONS, EXERCISES, AND ACTIVITIES;

(II) TRAINING IN SELF-CARE; SELF-MANAGEMENT; SELF-REGULATION; HEALTH MANAGEMENT AND MAINTENANCE; HOME MANAGEMENT; COMMUNITY, VOLUNTEER, AND WORK INTEGRATION AND REINTEGRATION; SCHOOL ACTIVITIES; AND WORK PERFORMANCE;

(III) IDENTIFICATION, DEVELOPMENT, REMEDIATION, OR COMPENSATION OF PHYSICAL, COGNITIVE, NEUROMUSCULOSKELETAL, SENSORY, VISUAL, PERCEPTUAL, AND MENTAL FUNCTIONS; SENSORY PROCESSING; FUNCTIONAL COGNITION; PAIN TOLERANCE AND MANAGEMENT; DEVELOPMENTAL SKILLS; AND BEHAVIORAL SKILLS;

(IV) THERAPEUTIC USE OF SELF, INCLUDING A PERSON'S PERSONALITY, INSIGHTS, PERCEPTIONS, AND JUDGMENTS, AS PART OF THE THERAPEUTIC PROCESS;

(V) EDUCATION AND TRAINING OF INDIVIDUALS, INCLUDING FAMILY MEMBERS,

CAREGIVERS, GROUPS, POPULATIONS, AND OTHERS;

(VI) CARE COORDINATION, CASE MANAGEMENT, AND TRANSITION SERVICES; DIRECT, INDIRECT, AND CONSULTATIVE CARE; ADVOCACY AND SELF-ADVOCACY; AND OTHER SERVICE DELIVERY METHODS;

(VII) CONSULTATIVE SERVICES TO INDIVIDUALS, GROUPS, PROGRAMS, ORGANIZATIONS, OR COMMUNITIES;

(VIII) MODIFICATION OF ENVIRONMENTS SUCH AS HOME, WORK, SCHOOL, OR COMMUNITY, AND ADAPTATION OF PROCESSES, INCLUDING THE APPLICATION OF ERGONOMIC PRINCIPLES;

(IX) ASSESSMENT, DESIGN, FABRICATION, APPLICATION, FITTING, AND TRAINING IN ASSISTIVE TECHNOLOGY AND ADAPTIVE AND ORTHOTIC DEVICES AND TRAINING IN SEATING AND POSITIONING AND IN THE USE OF PROSTHETIC DEVICES, EXCLUDING GLASSES, CONTACT LENSES, OR OTHER PRESCRIPTIVE DEVICES TO CORRECT VISION UNLESS PRESCRIBED BY AN OPTOMETRIST;

(X) ASSESSMENT, RECOMMENDATION, AND TRAINING IN TECHNIQUES TO ENHANCE FUNCTIONAL MOBILITY, INCLUDING COMPLEX SEATING AND MANAGEMENT OF WHEELCHAIRS AND OTHER MOBILITY DEVICES;

(XI) DRIVER REHABILITATION AND COMMUNITY MOBILITY;

(XII) MANAGEMENT OF FEEDING, EATING, AND SWALLOWING TO SUPPORT EATING AND FEEDING PERFORMANCE NECESSARY FOR NUTRITION, SOCIAL PARTICIPATION, OR OTHER HEALTH OR WELLNESS CONSIDERATIONS;

(XIII) APPLICATION OF PHYSICAL AGENT MODALITIES AND THERAPEUTIC PROCEDURES SUCH AS WOUND MANAGEMENT; TECHNIQUES TO ENHANCE, MAINTAIN, OR PREVENT THE DECLINE OF SENSORY, PERCEPTUAL, PSYCHOSOCIAL, OR COGNITIVE PROCESSING; MANAGEMENT OF PAIN; AND MANUAL TECHNIQUES TO ENHANCE, MAINTAIN, OR PREVENT THE DECLINE OF PERFORMANCE SKILLS;

(XIV) THE USE OF TELEHEALTH, TELEREHABILITATION, AND TELETHERAPY PURSUANT TO RULES AS MAY BE ADOPTED BY THE DIRECTOR;

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

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

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

(XVIII) BEHAVIORAL HEALTH CARE SERVICES TO ENHANCE, MAINTAIN, OR

PREVENT THE DECLINE OF OCCUPATIONAL PERFORMANCE WITHIN THE SCOPE OF PRACTICE OF OCCUPATIONAL THERAPY.

(11) "OCCUPATIONAL THERAPY ASSISTANT" MEANS A PERSON LICENSED UNDER THIS ARTICLE 270 TO PRACTICE OCCUPATIONAL THERAPY UNDER THE SUPERVISION OF AND IN PARTNERSHIP WITH AN OCCUPATIONAL THERAPIST.

(12) "SUPERVISION" MEANS THE GIVING OF AID, DIRECTIONS, AND INSTRUCTIONS THAT ARE ADEQUATE TO ENSURE THE SAFETY AND WELFARE OF CLIENTS DURING THE PROVISION OF OCCUPATIONAL THERAPY BY THE OCCUPATIONAL THERAPIST DESIGNATED AS THE SUPERVISOR. RESPONSIBLE DIRECTION AND SUPERVISION BY THE OCCUPATIONAL THERAPIST INCLUDES CONSIDERATION OF FACTORS SUCH AS LEVEL OF SKILL, THE ESTABLISHMENT OF SERVICE COMPETENCY, EXPERIENCE, WORK SETTING DEMANDS, THE COMPLEXITY AND STABILITY OF THE CLIENT POPULATION, AND OTHER FACTORS. SUPERVISION IS A COLLABORATIVE PROCESS FOR RESPONSIBLE, PERIODIC REVIEW AND INSPECTION OF ALL ASPECTS OF OCCUPATIONAL THERAPY SERVICES, AND THE OCCUPATIONAL THERAPIST IS LEGALLY ACCOUNTABLE FOR OCCUPATIONAL THERAPY SERVICES PROVIDED BY THE OCCUPATIONAL THERAPY ASSISTANT AND THE AIDE.

(13) "TELEHEALTH" MEANS THE USE OF ELECTRONIC INFORMATION AND TELECOMMUNICATIONS TECHNOLOGY TO SUPPORT AND PROMOTE ACCESS TO CLINICAL HEALTH CARE, CLIENT AND PROFESSIONAL HEALTH-RELATED EDUCATION, PUBLIC HEALTH, AND HEALTH ADMINISTRATION.

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

(15) "VISION THERAPY SERVICES" MEANS THE ASSESSMENT, DIAGNOSIS, TREATMENT, AND MANAGEMENT OF A CLIENT WITH VISION THERAPY, VISUAL TRAINING, VISUAL REHABILITATION, ORTHOPTICS, OR EYE EXERCISES.

**12-270-105. Use of titles restricted.** (1) ONLY A PERSON LICENSED AS AN OCCUPATIONAL THERAPIST IN THIS STATE OR WHO IS A LEGALLY QUALIFIED OCCUPATIONAL THERAPIST FROM ANOTHER STATE OR COUNTRY PROVIDING SERVICES ON BEHALF OF A TEMPORARILY ABSENT OCCUPATIONAL THERAPIST LICENSED IN THIS STATE, IN ACCORDANCE WITH SECTION 12-270-110 (1)(e), MAY USE THE TITLE "OCCUPATIONAL THERAPIST LICENSED", "LICENSED OCCUPATIONAL THERAPIST", "OCCUPATIONAL THERAPIST", "DOCTOR OF OCCUPATIONAL THERAPY", OR "OCCUPATIONAL THERAPY CONSULTANT"; USE THE ABBREVIATION "O.T.", "M.O.T.", "O.T.D.", "O.T.R.", "O.T./L.", "M.O.T./L.", "O.T.D./L.", OR "O.T.R./L."; OR USE ANY OTHER GENERALLY ACCEPTED TERMS, LETTERS, OR FIGURES THAT INDICATE THAT THE PERSON IS AN OCCUPATIONAL THERAPIST.

(2) ONLY A PERSON LICENSED AS AN OCCUPATIONAL THERAPY ASSISTANT IN THIS STATE MAY USE THE TITLE "OCCUPATIONAL THERAPY ASSISTANT", "OCCUPATIONAL THERAPY ASSISTANT LICENSED", OR "LICENSED OCCUPATIONAL THERAPY ASSISTANT"; USE THE ABBREVIATION "O.T.A.", "O.T.A./L.", "C.O.T.A.", OR "C.O.T.A./L."; OR USE ANY OTHER GENERALLY ACCEPTED TERMS, LETTERS, OR

FIGURES INDICATING THAT THE PERSON IS AN OCCUPATIONAL THERAPY ASSISTANT.

**12-270-106. License required - occupational therapists - occupational therapy assistants.** (1) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE 270, A PERSON SHALL NOT PRACTICE OCCUPATIONAL THERAPY OR REPRESENT THAT THE PERSON MAY PRACTICE OCCUPATIONAL THERAPY IN THIS STATE WITHOUT POSSESSING A VALID LICENSE ISSUED BY THE DIRECTOR IN ACCORDANCE WITH THIS ARTICLE 270 AND RULES ADOPTED PURSUANT TO THIS ARTICLE 270.

(2) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE 270, A PERSON SHALL NOT PRACTICE AS AN OCCUPATIONAL THERAPY ASSISTANT OR REPRESENT THAT THE PERSON MAY PRACTICE AS AN OCCUPATIONAL THERAPY ASSISTANT IN THIS STATE WITHOUT POSSESSING A VALID LICENSE ISSUED BY THE DIRECTOR IN ACCORDANCE WITH THIS ARTICLE 270 AND ANY RULES ADOPTED UNDER THIS ARTICLE 270.

**12-270-107. Licensure of occupational therapists - qualifications - application - rules.** (1) **Educational and experiential requirements.** EVERY APPLICANT FOR LICENSURE AS AN OCCUPATIONAL THERAPIST MUST HAVE:

(a) SUCCESSFULLY COMPLETED THE ACADEMIC REQUIREMENTS OF AN EDUCATIONAL PROGRAM FOR OCCUPATIONAL THERAPISTS THAT IS OFFERED BY AN INSTITUTION OF HIGHER EDUCATION AND ACCREDITED BY A NATIONAL, REGIONAL, OR STATE AGENCY RECOGNIZED BY THE UNITED STATES SECRETARY OF EDUCATION, OR ANOTHER PROGRAM ACCREDITED THEREBY AND APPROVED BY THE DIRECTOR; AND

(b) SUCCESSFULLY COMPLETED A MINIMUM PERIOD OF SUPERVISED FIELDWORK EXPERIENCE REQUIRED BY THE RECOGNIZED EDUCATIONAL INSTITUTION WHERE THE APPLICANT MET THE ACADEMIC REQUIREMENTS DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION. THE MINIMUM PERIOD OF SUPERVISED FIELDWORK EXPERIENCE FOR AN OCCUPATIONAL THERAPIST MUST:

(I) MEET THE ACCREDITATION STANDARDS OF THE AMERICAN OCCUPATIONAL THERAPY ASSOCIATION, ACCREDITATION COUNCIL FOR OCCUPATIONAL THERAPY EDUCATION, OR ANY SUCCESSOR ORGANIZATION; OR

(II) SATISFY THE ACCREDITATION STANDARDS FOR MINIMUM FIELDWORK REQUIREMENTS AT THE TIME OF GRADUATION.

(2) **Examination.** EACH APPLICANT MUST PASS A NATIONALLY RECOGNIZED EXAMINATION, APPROVED BY THE DIRECTOR, THAT MEASURES THE MINIMUM LEVEL OF COMPETENCE NECESSARY FOR THE PROTECTION OF PUBLIC HEALTH, SAFETY, AND WELFARE.

(3) **Application.** AFTER AN APPLICANT HAS FULFILLED THE REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION, THE APPLICANT MAY APPLY FOR LICENSURE UPON PAYMENT OF A FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR. THE DIRECTOR SHALL DESIGNATE THE FORM AND MANNER OF THE APPLICATION.

(4) **Licensure.** AFTER AN APPLICANT HAS FULFILLED THE REQUIREMENTS OF SUBSECTIONS (1) TO (3) OF THIS SECTION, THE DIRECTOR SHALL ISSUE A LICENSE TO

THE APPLICANT; EXCEPT THAT THE DIRECTOR MAY DENY A LICENSE IF THE APPLICANT HAS COMMITTED ANY ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-270-114.

(5) **Licensure by endorsement.** AN APPLICANT MAY OBTAIN LICENSURE BY ENDORSEMENT IF THE APPLICANT SATISFIES THE REQUIREMENTS OF THE OCCUPATIONAL CREDENTIAL PORTABILITY PROGRAM.

(6) **License renewal.** LICENSES ISSUED PURSUANT TO THIS SECTION ARE SUBJECT TO THE RENEWAL, EXPIRATION, REINSTATEMENT, AND DELINQUENCY FEE PROVISIONS SPECIFIED IN SECTION 12-20-202 (1) AND (2). ANY PERSON WHOSE LICENSE EXPIRES IS SUBJECT TO THE PENALTIES PROVIDED IN THIS ARTICLE 270 AND SECTION 12-20-202 (1).

**12-270-108. Licensure of occupational therapy assistants - qualifications - application - rules.** (1) **Educational and experiential requirements.** EVERY APPLICANT FOR LICENSURE AS AN OCCUPATIONAL THERAPY ASSISTANT MUST HAVE:

(a) SUCCESSFULLY COMPLETED THE ACADEMIC REQUIREMENTS OF AN EDUCATIONAL PROGRAM FOR OCCUPATIONAL THERAPY ASSISTANTS THAT IS OFFERED BY AN INSTITUTION OF HIGHER EDUCATION AND ACCREDITED BY A NATIONAL, REGIONAL, OR STATE AGENCY RECOGNIZED BY THE UNITED STATES SECRETARY OF EDUCATION, OR ANOTHER PROGRAM ACCREDITED THEREBY AND APPROVED BY THE DIRECTOR; AND

(b) SUCCESSFULLY COMPLETED A MINIMUM PERIOD OF SUPERVISED FIELDWORK EXPERIENCE REQUIRED BY THE RECOGNIZED EDUCATIONAL INSTITUTION WHERE THE APPLICANT MET THE ACADEMIC REQUIREMENTS DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION. THE MINIMUM PERIOD OF SUPERVISED FIELDWORK EXPERIENCE FOR AN OCCUPATIONAL THERAPY ASSISTANT MUST:

(I) MEET THE ACCREDITATION STANDARDS OF THE AMERICAN OCCUPATIONAL THERAPY ASSOCIATION, ACCREDITATION COUNCIL FOR OCCUPATIONAL THERAPY EDUCATION, OR ANY SUCCESSOR ORGANIZATION; OR

(II) SATISFY THE ACCREDITATION STANDARDS FOR MINIMUM FIELDWORK REQUIREMENTS AT THE TIME OF GRADUATION.

(2) **Examination.** EACH APPLICANT MUST PASS A NATIONALLY RECOGNIZED EXAMINATION, APPROVED BY THE DIRECTOR, THAT MEASURES THE MINIMUM LEVEL OF COMPETENCE NECESSARY FOR THE PROTECTION OF PUBLIC HEALTH, SAFETY, AND WELFARE.

(3) **Application.** AFTER AN APPLICANT HAS FULFILLED THE REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION, THE APPLICANT MAY APPLY FOR LICENSURE UPON PAYMENT OF A FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR. THE DIRECTOR SHALL DESIGNATE THE FORM AND MANNER OF THE APPLICATION.

(4) **Licensure.** AFTER AN APPLICANT HAS FULFILLED THE REQUIREMENTS OF SUBSECTIONS (1) TO (3) OF THIS SECTION, THE DIRECTOR SHALL ISSUE A LICENSE TO THE APPLICANT; EXCEPT THAT THE DIRECTOR MAY DENY A LICENSE IF THE



APPLICANT HAS COMMITTED ANY ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-270-114.

(5) **Licensure by endorsement.** AN APPLICANT MAY OBTAIN LICENSURE BY ENDORSEMENT IF THE APPLICANT SATISFIES THE REQUIREMENTS OF THE OCCUPATIONAL CREDENTIAL PORTABILITY PROGRAM.

(6) **License renewal.** LICENSES ISSUED PURSUANT TO THIS SECTION ARE SUBJECT TO THE RENEWAL, EXPIRATION, REINSTATEMENT, AND DELINQUENCY FEE PROVISIONS SPECIFIED IN SECTION 12-20-202 (1) AND (2). ANY PERSON WHOSE LICENSE EXPIRES IS SUBJECT TO THE PENALTIES PROVIDED IN THIS ARTICLE 270 AND SECTION 12-20-202 (1).

**12-270-109. Supervision of occupational therapy assistants and aides.** (1) AN OCCUPATIONAL THERAPY ASSISTANT MAY PRACTICE ONLY UNDER THE SUPERVISION OF AN OCCUPATIONAL THERAPIST WHO IS LICENSED TO PRACTICE OCCUPATIONAL THERAPY IN THIS STATE. THE OCCUPATIONAL THERAPIST IS RESPONSIBLE FOR OCCUPATIONAL THERAPY EVALUATION, APPROPRIATE REASSESSMENT, TREATMENT PLANNING, INTERVENTIONS, AND DISCHARGE FROM OCCUPATIONAL THERAPY SERVICES BASED ON STANDARD PROFESSIONAL GUIDELINES. SUPERVISION OF AN OCCUPATIONAL THERAPY ASSISTANT BY AN OCCUPATIONAL THERAPIST IS A SHARED RESPONSIBILITY. THE SUPERVISING OCCUPATIONAL THERAPIST AND THE SUPERVISED OCCUPATIONAL THERAPY ASSISTANT HAVE LEGAL AND ETHICAL RESPONSIBILITY FOR ONGOING MANAGEMENT OF SUPERVISION, INCLUDING PROVIDING, REQUESTING, GIVING, OR OBTAINING SUPERVISION. THE SUPERVISING OCCUPATIONAL THERAPIST SHALL DETERMINE THE FREQUENCY, LEVEL, AND NATURE OF SUPERVISION WITH INPUT FROM THE OCCUPATIONAL THERAPY ASSISTANT AND SHALL BASE THE SUPERVISION DETERMINATION ON A VARIETY OF FACTORS, INCLUDING THE CLIENTS' REQUIRED LEVEL OF CARE, THE TREATMENT PLAN, AND THE EXPERIENCE AND PERTINENT SKILLS OF THE OCCUPATIONAL THERAPY ASSISTANT.

(2) THE SUPERVISING OCCUPATIONAL THERAPIST SHALL SUPERVISE THE OCCUPATIONAL THERAPY ASSISTANT IN A MANNER THAT ENSURES THAT THE OCCUPATIONAL THERAPY ASSISTANT:

(a) DOES NOT INITIATE OR ALTER A TREATMENT PROGRAM WITHOUT PRIOR EVALUATION BY AND APPROVAL OF THE SUPERVISING OCCUPATIONAL THERAPIST;

(b) OBTAINS PRIOR APPROVAL OF THE SUPERVISING OCCUPATIONAL THERAPIST BEFORE MAKING ADJUSTMENTS TO A SPECIFIC TREATMENT PROCEDURE; AND

(c) DOES NOT INTERPRET DATA BEYOND THE SCOPE OF THE OCCUPATIONAL THERAPY ASSISTANT'S EDUCATION AND TRAINING.

(3) AN AIDE SHALL FUNCTION ONLY UNDER THE GUIDANCE, RESPONSIBILITY, AND SUPERVISION OF AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT. THE AIDE SHALL PERFORM ONLY SPECIFICALLY SELECTED TASKS FOR WHICH THE AIDE HAS BEEN TRAINED AND HAS DEMONSTRATED COMPETENCE TO THE OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT. THE SUPERVISING OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT SHALL SUPERVISE THE AIDE IN A MANNER THAT ENSURES COMPLIANCE WITH THIS

SUBSECTION (3) AND IS SUBJECT TO DISCIPLINE UNDER SECTION 12-270-114 FOR FAILURE TO PROPERLY SUPERVISE AN AIDE.

**12-270-110. Scope of article - exclusions.** (1) THIS ARTICLE 270 DOES NOT PREVENT OR RESTRICT THE PRACTICE, SERVICES, OR ACTIVITIES OF:

(a) A PERSON LICENSED OR OTHERWISE REGULATED IN THIS STATE BY ANY OTHER LAW FROM ENGAGING IN THE PERSON'S PROFESSION OR OCCUPATION AS DEFINED IN THE PART OR ARTICLE UNDER WHICH THE PERSON IS LICENSED;

(b) A PERSON PURSUING A COURSE OF STUDY LEADING TO A DEGREE IN OCCUPATIONAL THERAPY AT AN EDUCATIONAL INSTITUTION WITH AN ACCREDITED OCCUPATIONAL THERAPY PROGRAM IF THAT PERSON IS DESIGNATED BY A TITLE THAT CLEARLY INDICATES THE PERSON'S STATUS AS A STUDENT AND IF THE PERSON ACTS UNDER APPROPRIATE INSTRUCTION AND SUPERVISION;

(c) A PERSON FULFILLING THE SUPERVISED FIELDWORK EXPERIENCE REQUIREMENTS OF SECTION 12-270-107 (1) OR 12-270-108 (1) IF THE EXPERIENCE CONSTITUTES A PART OF THE EXPERIENCE NECESSARY TO MEET THE REQUIREMENT OF SECTION 12-270-107 (1) OR 12-270-108 (1) AND THE PERSON ACTS UNDER APPROPRIATE SUPERVISION;

(d) A PERSON FULFILLING AN OCCUPATIONAL THERAPY DOCTORAL CAPSTONE EXPERIENCE IF THE PERSON ACTS UNDER APPROPRIATE SUPERVISION; OR

(e) OCCUPATIONAL THERAPY IN THIS STATE BY ANY LEGALLY QUALIFIED OCCUPATIONAL THERAPIST FROM ANOTHER STATE OR COUNTRY WHEN PROVIDING SERVICES ON BEHALF OF A TEMPORARILY ABSENT OCCUPATIONAL THERAPIST LICENSED IN THIS STATE, SO LONG AS THE UNLICENSED OCCUPATIONAL THERAPIST IS ACTING IN ACCORDANCE WITH RULES ESTABLISHED BY THE DIRECTOR. THE UNLICENSED PRACTICE MUST NOT BE OF MORE THAN FOUR WEEKS' DURATION, AND A PERSON SHALL NOT UNDERTAKE UNLICENSED PRACTICE MORE THAN ONCE IN ANY TWELVE-MONTH PERIOD.

**12-270-111. Limitations on authority.** (1) NOTHING IN THIS ARTICLE 270 AUTHORIZES AN OCCUPATIONAL THERAPIST TO ENGAGE IN THE PRACTICE OF MEDICINE, AS DEFINED IN SECTION 12-240-107; OPTOMETRY, AS DESCRIBED IN ARTICLE 275 OF THIS TITLE 12; OR ANY OTHER FORM OF HEALING EXCEPT AS AUTHORIZED BY THIS ARTICLE 270.

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

**12-270-112. Continuing professional competency - definition.** (1) (a) EACH OCCUPATIONAL THERAPIST AND OCCUPATIONAL THERAPY ASSISTANT SHALL MAINTAIN CONTINUING PROFESSIONAL COMPETENCY TO PRACTICE OCCUPATIONAL THERAPY.

(b) THE DIRECTOR SHALL ESTABLISH A CONTINUING PROFESSIONAL COMPETENCY PROGRAM THAT INCLUDES:

(I) A SELF-ASSESSMENT OF THE KNOWLEDGE AND SKILLS OF A LICENSEE SEEKING TO RENEW OR REINSTATE A LICENSE;

(II) DEVELOPMENT, EXECUTION, AND DOCUMENTATION OF A LEARNING PLAN BASED ON THE SELF-ASSESSMENT DESCRIBED IN SUBSECTION (1)(b)(I) OF THIS SECTION; AND

(III) PERIODIC DEMONSTRATION OF KNOWLEDGE AND SKILLS THROUGH DOCUMENTATION OF ACTIVITIES NECESSARY TO ENSURE AT LEAST MINIMAL ABILITY TO SAFELY PRACTICE THE PROFESSION; EXCEPT THAT AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT LICENSED PURSUANT TO THIS ARTICLE 270 NEED NOT RETAKE THE EXAMINATION REQUIRED BY SECTION 12-270-107 (2) OR 12-270-108 (2), RESPECTIVELY, FOR INITIAL LICENSURE.

(2) A LICENSEE SATISFIES THE CONTINUING COMPETENCY REQUIREMENTS OF THIS SECTION IF THE LICENSEE MEETS THE CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS OF AN ACCREDITING BODY OR AN ENTITY THAT IS APPROVED BY THE DIRECTOR.

(3) (a) AFTER THE PROGRAM IS ESTABLISHED, A LICENSEE MUST SATISFY THE REQUIREMENTS OF THE PROGRAM IN ORDER TO RENEW OR REINSTATE A LICENSE TO PRACTICE OCCUPATIONAL THERAPY.

(b) THE REQUIREMENTS OF THIS SECTION APPLY TO INDIVIDUAL OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS, AND NOTHING IN THIS SECTION REQUIRES A PERSON WHO EMPLOYS OR CONTRACTS WITH AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT TO COMPLY WITH THIS SECTION.

(4) RECORDS OF ASSESSMENTS OR OTHER DOCUMENTATION DEVELOPED OR SUBMITTED IN CONNECTION WITH THE CONTINUING PROFESSIONAL COMPETENCY PROGRAM:

(a) ARE CONFIDENTIAL AND NOT SUBJECT TO INSPECTION BY THE PUBLIC OR DISCOVERY IN CONNECTION WITH A CIVIL ACTION AGAINST AN OCCUPATIONAL THERAPIST, OCCUPATIONAL THERAPY ASSISTANT, OR OTHER PROFESSIONAL REGULATED UNDER THIS TITLE 12; AND

(b) MAY BE USED ONLY BY THE DIRECTOR AND ONLY FOR THE PURPOSE OF DETERMINING WHETHER A LICENSEE IS MAINTAINING CONTINUING PROFESSIONAL COMPETENCY TO ENGAGE IN THE PROFESSION.

(5) AS USED IN THIS SECTION, "CONTINUING PROFESSIONAL COMPETENCY" MEANS THE ONGOING ABILITY OF A LICENSEE TO LEARN, INTEGRATE, AND APPLY THE KNOWLEDGE, SKILL, AND JUDGMENT TO PRACTICE OCCUPATIONAL THERAPY ACCORDING TO GENERALLY ACCEPTED STANDARDS AND PROFESSIONAL ETHICAL STANDARDS.

**12-270-113. Protection of medical records - licensee's obligations - verification of compliance - noncompliance grounds for discipline - rules.**

(1) EACH OCCUPATIONAL THERAPIST AND OCCUPATIONAL THERAPY ASSISTANT

RESPONSIBLE FOR CLIENT MEDICAL RECORDS SHALL DEVELOP A WRITTEN PLAN TO ENSURE THE SECURITY OF CLIENT MEDICAL RECORDS. THE PLAN MUST ADDRESS AT LEAST THE FOLLOWING:

(a) THE STORAGE AND PROPER DISPOSAL OF CLIENT MEDICAL RECORDS;

(b) THE DISPOSITION OF CLIENT MEDICAL RECORDS IF THE LICENSEE DIES, RETIRES, OR OTHERWISE CEASES TO PRACTICE OR PROVIDE OCCUPATIONAL THERAPY SERVICES TO CLIENTS; AND

(c) THE METHOD BY WHICH CLIENTS MAY ACCESS OR OBTAIN THEIR MEDICAL RECORDS PROMPTLY IF ANY OF THE EVENTS DESCRIBED IN SUBSECTION (1)(b) OF THIS SECTION OCCUR.

(2) A LICENSEE SHALL INFORM EACH CLIENT IN WRITING OF THE METHOD BY WHICH THE CLIENT MAY ACCESS OR OBTAIN THE CLIENT'S MEDICAL RECORDS IF AN EVENT DESCRIBED IN SUBSECTION (1)(b) OF THIS SECTION OCCURS.

(3) UPON INITIAL LICENSURE UNDER THIS ARTICLE 270 AND UPON RENEWAL OF A LICENSE, THE APPLICANT OR LICENSEE SHALL ATTEST TO THE DIRECTOR THAT THE LICENSEE HAS DEVELOPED A PLAN IN COMPLIANCE WITH THIS SECTION.

(4) A LICENSEE WHO FAILS TO COMPLY WITH THIS SECTION IS SUBJECT TO DISCIPLINE IN ACCORDANCE WITH SECTION 12-270-114.

(5) THE DIRECTOR MAY ADOPT RULES REASONABLY NECESSARY TO IMPLEMENT THIS SECTION.

**12-270-114. Grounds for discipline - disciplinary proceedings - definitions - judicial review.** (1) THE DIRECTOR MAY TAKE DISCIPLINARY ACTION AGAINST A LICENSEE IF THE DIRECTOR FINDS THAT THE LICENSEE HAS REPRESENTED THAT THE LICENSEE IS A LICENSED OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT AFTER THE EXPIRATION, SUSPENSION, OR REVOCATION OF THE LICENSEE'S LICENSE.

(2) THE DIRECTOR MAY TAKE DISCIPLINARY OR OTHER ACTION AS AUTHORIZED IN SECTION 12-20-404 AGAINST, OR ISSUE A CEASE-AND-DESIST ORDER UNDER THE CIRCUMSTANCES AND IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION 12-20-405 TO, A LICENSEE IN ACCORDANCE WITH THIS SECTION, UPON PROOF THAT THE LICENSEE:

(a) HAS ENGAGED IN A SEXUAL ACT WITH A PERSON RECEIVING SERVICES WHILE A THERAPEUTIC RELATIONSHIP EXISTED OR WITHIN SIX MONTHS IMMEDIATELY FOLLOWING TERMINATION OF THE THERAPEUTIC RELATIONSHIP. FOR THE PURPOSES OF THIS SUBSECTION (2)(a):

(I) "SEXUAL ACT" MEANS SEXUAL CONTACT, SEXUAL INTRUSION, OR SEXUAL PENETRATION, AS DEFINED IN SECTION 18-3-401.

(II) "THERAPEUTIC RELATIONSHIP" MEANS THE PERIOD BEGINNING WITH THE INITIAL EVALUATION AND ENDING UPON THE WRITTEN TERMINATION OF TREATMENT.

(b) HAS FALSIFIED INFORMATION IN AN APPLICATION OR HAS ATTEMPTED TO OBTAIN OR HAS OBTAINED A LICENSE BY FRAUD, DECEPTION, OR MISREPRESENTATION;

(c) IS AN EXCESSIVE OR HABITUAL USER OR ABUSER OF ALCOHOL OR HABIT-FORMING DRUGS OR IS A HABITUAL USER OF A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 18-18-102 (5), OR OTHER DRUGS HAVING SIMILAR EFFECTS; EXCEPT THAT THE DIRECTOR HAS THE DISCRETION NOT TO DISCIPLINE THE LICENSEE IF THE LICENSEE IS PARTICIPATING IN GOOD FAITH IN A PROGRAM TO END THE USE OR ABUSE, WHICH PROGRAM THE DIRECTOR HAS APPROVED;

(d)(I) HAS FAILED TO NOTIFY THE DIRECTOR, AS REQUIRED BY SECTION 12-30-108 (1), OF A PHYSICAL ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL, MENTAL HEALTH, OR SUBSTANCE USE DISORDER THAT IMPACTS THE LICENSEE'S ABILITY TO PROVIDE OCCUPATIONAL THERAPY SERVICES WITH REASONABLE SKILL AND SAFETY OR THAT MAY ENDANGER THE HEALTH OR SAFETY OF INDIVIDUALS RECEIVING SERVICES;

(II) HAS FAILED TO ACT WITHIN THE LIMITATIONS CREATED BY A PHYSICAL ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL, MENTAL HEALTH, OR SUBSTANCE USE DISORDER THAT RENDERS THE PERSON UNABLE TO PRACTICE OCCUPATIONAL THERAPY WITH REASONABLE SKILL AND SAFETY OR THAT MAY ENDANGER THE HEALTH OR SAFETY OF PERSONS UNDER THE LICENSEE'S CARE; OR

(III) HAS FAILED TO COMPLY WITH THE LIMITATIONS AGREED TO UNDER A CONFIDENTIAL AGREEMENT ENTERED INTO PURSUANT TO SECTIONS 12-30-108 AND 12-270-118;

(e) HAS VIOLATED OR AIDED OR ABETTED OR KNOWINGLY PERMITTED ANY PERSON TO VIOLATE THIS ARTICLE 270, AN APPLICABLE PROVISION OF ARTICLE 20 OR 30 OF THIS TITLE 12, A RULE ADOPTED UNDER THIS ARTICLE 270, OR ANY LAWFUL ORDER OF THE DIRECTOR;

(f) HAS HAD A LICENSE OR REGISTRATION SUSPENDED OR REVOKED FOR ACTIONS THAT ARE A VIOLATION OF THIS ARTICLE 270;

(g) HAS BEEN CONVICTED OF OR PLED GUILTY OR NOLO CONTENDERE TO A FELONY OR COMMITTED AN ACT SPECIFIED IN SECTION 12-270-115. A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF COMPETENT JURISDICTION OF THE CONVICTION OR PLEA IS CONCLUSIVE EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE DISCIPLINARY ACTION, THE DIRECTOR SHALL BE GOVERNED BY SECTIONS 12-20-202 (5) AND 24-5-101.

(h) HAS FRAUDULENTLY OBTAINED, FURNISHED, OR SOLD ANY OCCUPATIONAL THERAPY DIPLOMA, CERTIFICATE, LICENSE, OR RENEWAL OF A LICENSE OR RECORD, OR AIDED OR ABETTED SUCH ACT;

(i) HAS FAILED TO NOTIFY THE DIRECTOR OF THE SUSPENSION OR REVOCATION OF THE PERSON'S PAST OR CURRENTLY HELD LICENSE, CERTIFICATE, OR REGISTRATION REQUIRED TO PRACTICE OCCUPATIONAL THERAPY IN THIS OR ANY OTHER JURISDICTION;

(j) HAS REFUSED TO SUBMIT TO A PHYSICAL OR MENTAL EXAMINATION WHEN ORDERED BY THE DIRECTOR PURSUANT TO SECTION 12-270-117;

(k) HAS ENGAGED IN ANY OF THE FOLLOWING ACTIVITIES AND PRACTICES:

(I) ORDERING OR PERFORMING, WITHOUT CLINICAL JUSTIFICATION, DEMONSTRABLY UNNECESSARY LABORATORY TESTS OR STUDIES;

(II) ADMINISTERING TREATMENT, WITHOUT CLINICAL JUSTIFICATION, THAT IS DEMONSTRABLY UNNECESSARY; OR

(III) COMMITTING AN ACT OR OMISSION THAT IS CONTRARY TO GENERALLY ACCEPTED STANDARDS OF THE PRACTICE OF OCCUPATIONAL THERAPY;

(l) HAS FAILED TO PROVIDE ADEQUATE OR PROPER SUPERVISION OF A LICENSED OCCUPATIONAL THERAPY ASSISTANT, OF AN AIDE, OR OF ANY UNLICENSED PERSON IN THE OCCUPATIONAL THERAPY PRACTICE;

(m) HAS FAILED TO MAKE ESSENTIAL ENTRIES ON CLIENT RECORDS OR FALSIFIED OR MADE INCORRECT ENTRIES OF AN ESSENTIAL NATURE ON CLIENT RECORDS;

(n) HAS COMMITTED ABUSE OF HEALTH INSURANCE AS SET FORTH IN SECTION 18-13-119(3);

(o) HAS COMMITTED A FRAUDULENT INSURANCE ACT, AS DESCRIBED IN SECTION 10-1-128; OR

(p) HAS OTHERWISE VIOLATED THIS ARTICLE 270 OR ANY LAWFUL ORDER OR RULE OF THE DIRECTOR.

(3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, THE DIRECTOR NEED NOT FIND THAT THE ACTIONS THAT ARE GROUNDS FOR DISCIPLINE WERE WILLFUL BUT MAY CONSIDER WHETHER THE ACTIONS WERE WILLFUL WHEN DETERMINING THE NATURE OF DISCIPLINARY SANCTIONS TO BE IMPOSED.

(4)(a) THE DIRECTOR MAY COMMENCE A PROCEEDING TO DISCIPLINE A LICENSEE WHEN THE DIRECTOR HAS REASONABLE GROUNDS TO BELIEVE THAT THE LICENSEE HAS COMMITTED AN ACT OR OMISSION DESCRIBED IN THIS SECTION OR HAS VIOLATED A LAWFUL ORDER OR RULE OF THE DIRECTOR.

(b) IN ANY PROCEEDING UNDER THIS SECTION, THE DIRECTOR MAY ACCEPT AS EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION ANY DISCIPLINARY ACTION TAKEN AGAINST A LICENSEE OR REGISTRANT IN ANOTHER JURISDICTION IF THE VIOLATION THAT PROMPTED THE DISCIPLINARY ACTION IN THE OTHER JURISDICTION WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THIS ARTICLE 270.

(5) (a) THE DIRECTOR SHALL CONDUCT DISCIPLINARY PROCEEDINGS IN ACCORDANCE WITH SECTION 12-20-403 AND ARTICLE 4 OF TITLE 24. THE DIRECTOR MAY EXERCISE ALL POWERS AND DUTIES CONFERRED BY THIS ARTICLE 270 DURING THE DISCIPLINARY PROCEEDINGS.

(b) NO LATER THAN THIRTY DAYS AFTER THE DATE OF THE DIRECTOR'S ACTION, THE DIRECTOR SHALL NOTIFY A LICENSEE DISCIPLINED UNDER THIS SECTION OF THE ACTION TAKEN, THE SPECIFIC CHARGES GIVING RISE TO THE ACTION, AND THE LICENSEE'S RIGHT TO REQUEST A HEARING ON THE ACTION TAKEN. THE DIRECTOR SHALL PROVIDE THE NOTICE BY SENDING A CERTIFIED LETTER TO THE MOST RECENT ADDRESS PROVIDED TO THE DIRECTOR BY THE LICENSEE.

(c) WITHIN THIRTY DAYS AFTER THE DIRECTOR SENDS THE NOTICE DESCRIBED IN SUBSECTION (5)(b) OF THIS SECTION, THE LICENSEE MAY FILE A WRITTEN REQUEST WITH THE DIRECTOR FOR A HEARING ON THE ACTION TAKEN. UPON RECEIPT OF THE REQUEST, THE DIRECTOR SHALL GRANT A HEARING TO THE LICENSEE. IF THE LICENSEE FAILS TO FILE A WRITTEN REQUEST FOR A HEARING WITHIN THIRTY DAYS, THE ACTION OF THE DIRECTOR BECOMES FINAL ON THE THIRTY-FIRST DAY AFTER THE DIRECTOR SENT THE NOTICE DESCRIBED IN SUBSECTION (5)(b) OF THIS SECTION.

(d) A LICENSEE'S FAILURE TO APPEAR AT A HEARING WITHOUT GOOD CAUSE IS DEEMED A WITHDRAWAL OF THE LICENSEE'S REQUEST FOR A HEARING, AND THE DIRECTOR'S ACTION BECOMES FINAL ON THE HEARING DATE. THE DIRECTOR'S FAILURE TO APPEAR AT A HEARING WITHOUT GOOD CAUSE IS DEEMED CAUSE TO DISMISS THE PROCEEDING.

(6) THE DIRECTOR MAY SEEK AN INJUNCTION IN ACCORDANCE WITH SECTION 12-20-406 TO ENJOIN A PERSON FROM COMMITTING AN ACT PROHIBITED BY THIS ARTICLE 270.

(7) IN ACCORDANCE WITH SECTION 12-20-403, THIS ARTICLE 270, AND ARTICLE 4 OF TITLE 24, THE DIRECTOR IS AUTHORIZED TO INVESTIGATE, HOLD HEARINGS, AND GATHER EVIDENCE IN ALL MATTERS RELATED TO THE EXERCISE AND PERFORMANCE OF THE POWERS AND DUTIES OF THE DIRECTOR.

(8) A FINAL ACTION OF THE DIRECTOR IS SUBJECT TO JUDICIAL REVIEW PURSUANT TO SECTION 12-20-408.

(9) AN EMPLOYER OF A LICENSEE SHALL REPORT TO THE DIRECTOR ANY DISCIPLINARY ACTION TAKEN AGAINST THE LICENSEE OR THE RESIGNATION OF THE LICENSEE IN LIEU OF DISCIPLINARY ACTION FOR CONDUCT THAT VIOLATES THIS ARTICLE 270.

(10) THE DIRECTOR MAY ISSUE CEASE-AND-DESIST ORDERS UNDER THE CIRCUMSTANCES AND IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION 12-20-405.

(11) THE DIRECTOR MAY SEND A LETTER OF ADMONITION TO A LICENSEE UNDER THE CIRCUMSTANCES SPECIFIED IN AND IN ACCORDANCE WITH SECTION 12-20-404 (4).

(12) THE DIRECTOR MAY SEND A CONFIDENTIAL LETTER OF CONCERN TO A LICENSEE UNDER THE CIRCUMSTANCES SPECIFIED IN SECTION 12-20-404 (5).

**12-270-115. Unauthorized practice - penalties.** A PERSON WHO PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE OCCUPATIONAL THERAPY WITHOUT AN ACTIVE

LICENSE AS REQUIRED BY AND ISSUED UNDER THIS ARTICLE 270 FOR OCCUPATIONAL THERAPISTS OR OCCUPATIONAL THERAPY ASSISTANTS IS SUBJECT TO PENALTIES PURSUANT TO SECTION 12-20-407 (1)(b).

**12-270-116. Rule-making authority.** THE DIRECTOR SHALL PROMULGATE RULES PURSUANT TO SECTION 12-20-204.

**12-270-117. Mental and physical examination of licensees.** (1) IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT A LICENSEE IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY, THE DIRECTOR MAY ORDER THE LICENSEE TO TAKE A MENTAL OR PHYSICAL EXAMINATION ADMINISTERED BY A PHYSICIAN OR OTHER LICENSED HEALTH CARE PROFESSIONAL DESIGNATED BY THE DIRECTOR. EXCEPT WHERE DUE TO CIRCUMSTANCES BEYOND THE LICENSEE'S CONTROL, IF THE LICENSEE FAILS OR REFUSES TO UNDERGO A MENTAL OR PHYSICAL EXAMINATION, THE DIRECTOR MAY SUSPEND THE LICENSEE'S LICENSE UNTIL THE DIRECTOR HAS MADE A DETERMINATION OF THE LICENSEE'S FITNESS TO PRACTICE. THE DIRECTOR SHALL PROCEED WITH AN ORDER FOR EXAMINATION AND SHALL MAKE A DETERMINATION IN A TIMELY MANNER.

(2) IN AN ORDER REQUIRING A LICENSEE TO UNDERGO A MENTAL OR PHYSICAL EXAMINATION, THE DIRECTOR SHALL STATE THE BASIS OF THE DIRECTOR'S REASONABLE CAUSE TO BELIEVE THAT THE LICENSEE IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY. FOR PURPOSES OF A DISCIPLINARY PROCEEDING AUTHORIZED UNDER THIS ARTICLE 270, THE LICENSEE IS DEEMED TO HAVE WAIVED ALL OBJECTIONS TO THE ADMISSIBILITY OF THE EXAMINING PHYSICIAN'S OR LICENSED HEALTH CARE PROFESSIONAL'S TESTIMONY OR EXAMINATION REPORTS ON THE GROUNDS THAT THEY ARE PRIVILEGED COMMUNICATION.

(3) THE LICENSEE MAY SUBMIT TO THE DIRECTOR TESTIMONY OR EXAMINATION REPORTS FROM A PHYSICIAN CHOSEN BY THE LICENSEE AND PERTAINING TO ANY CONDITION THAT THE DIRECTOR HAS ALLEGED MAY PRECLUDE THE LICENSEE FROM PRACTICING WITH REASONABLE SKILL AND SAFETY. THE DIRECTOR MAY CONSIDER THE TESTIMONY AND REPORTS SUBMITTED BY THE LICENSEE IN CONJUNCTION WITH, BUT NOT IN LIEU OF, TESTIMONY AND EXAMINATION REPORTS OF THE PHYSICIAN DESIGNATED BY THE DIRECTOR.

(4) THE RESULTS OF A MENTAL OR PHYSICAL EXAMINATION ORDERED BY THE DIRECTOR SHALL NOT BE USED AS EVIDENCE IN ANY PROCEEDING OTHER THAN ONE BEFORE THE DIRECTOR AND SHALL NOT BE DEEMED A PUBLIC RECORD OR MADE AVAILABLE TO THE PUBLIC.

**12-270-118. Confidential agreement to limit practice.** SECTION 12-30-108 CONCERNING CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE APPLIES TO THIS ARTICLE 270.

**12-270-119. Professional liability insurance required - rules.** (1) A PERSON SHALL NOT PRACTICE OCCUPATIONAL THERAPY UNLESS THE PERSON PURCHASES AND MAINTAINS, OR IS COVERED BY, PROFESSIONAL LIABILITY INSURANCE IN AN AMOUNT DETERMINED BY THE DIRECTOR BY RULE THAT COVERS ALL ACTS WITHIN THE SCOPE OF PRACTICE OF THE OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT.



(2) THIS SECTION DOES NOT APPLY TO AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT WHO IS A PUBLIC EMPLOYEE ACTING WITHIN THE COURSE AND SCOPE OF THE PUBLIC EMPLOYEE'S DUTIES AND WHO IS GRANTED IMMUNITY UNDER THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24.

**12-270-120. Repeal of article - review of functions.** THIS ARTICLE 270 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2030. BEFORE THE REPEAL, THE DIRECTOR'S POWERS, DUTIES, AND FUNCTIONS UNDER THIS ARTICLE 270 ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

**SECTION 2.** In Colorado Revised Statutes, 10-4-634, **amend** (1) as follows:

**10-4-634. Assignment of payment for covered benefits.** (1) A policy of motor vehicle insurance coverage pursuant to this part 6 shall allow, but not require, an insured under the policy to assign, in writing, payments due under medical payments coverage of the policy to a licensed hospital or other licensed health care provider; an occupational therapist, as defined in ~~section 12-270-104(5)~~ SECTION 12-270-104 (9); AN OCCUPATIONAL THERAPY ASSISTANT, AS DEFINED IN SECTION 12-270-104 (11); or a massage therapist, as defined in section 12-235-104 (5), for services provided to the insured that are covered under the policy.

**SECTION 3.** In Colorado Revised Statutes, 10-4-635, **amend** (5)(d) as follows:

**10-4-635. Medical payments coverage - definitions.** (5) As used in this section:

(d) "Licensed health care provider" ~~shall have~~ HAS the same meaning as set forth in section 10-4-601, and also includes an occupational therapist, as defined in ~~section 12-270-104(5)~~ SECTION 12-270-104 (9), AND AN OCCUPATIONAL THERAPY ASSISTANT, AS DEFINED IN SECTION 12-270-104 (11).

**SECTION 4.** In Colorado Revised Statutes, **amend** 10-4-637 as follows:

**10-4-637. No discrimination by profession.** Reimbursement for lawfully performed health care services covered by a policy providing medical payments coverage under a motor vehicle policy issued pursuant to this part 6 shall not be denied when such services are a covered benefit and rendered within the scope of practice for a licensed health care provider; a massage therapist, as defined in section 12-235-104 (5); ~~or~~ an occupational therapist, as defined in ~~section 12-270-104(5)~~ SECTION 12-270-104 (9); OR AN OCCUPATIONAL THERAPY ASSISTANT, AS DEFINED IN SECTION 12-270-104 (11), performing the services.

**SECTION 5.** In Colorado Revised Statutes, 10-16-106.7, **amend** (1)(a) as follows:

**10-16-106.7. Assignment of health insurance benefits.** (1)(a) Any carrier that provides health coverage to a covered person shall allow, but not require, such covered person under the policy to assign, in writing, payments due under the policy to a licensed hospital OR other licensed health care provider; an occupational therapist, as defined in ~~section 12-270-104(5)~~ SECTION 12-270-104 (9); AN

OCCUPATIONAL THERAPY ASSISTANT, AS DEFINED IN SECTION 12-270-104 (11); or a massage therapist, as defined in section 12-235-104 (5), also referred to in this section as the "provider", for services provided to the covered person that are covered under the policy.

**SECTION 6.** In Colorado Revised Statutes, 13-4-102, **amend** (2)(kk) as follows:

**13-4-102. Jurisdiction.** (2) The court of appeals has initial jurisdiction to:

(kk) Review all final actions and orders appropriate for judicial review of the director of the division of professions and occupations in the department of regulatory agencies, as provided in section 12-270-114 ~~(9)~~ (8); and

**SECTION 7. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: January 21, 2021