

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 13-0145.02 Christy Chase x2008

SENATE BILL 13-180

SENATE SPONSORSHIP

Aguilar,

HOUSE SPONSORSHIP

Singer,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE REGULATION OF THE**
102 **PRACTICE OF OCCUPATIONAL THERAPY, AND, IN CONNECTION**
103 **THEREWITH, REQUIRING OCCUPATIONAL THERAPISTS AND**
104 **OCCUPATIONAL THERAPY ASSISTANTS TO OBTAIN A LICENSE**
105 **FROM THE DEPARTMENT OF REGULATORY AGENCIES,**
106 **MODIFYING PROVISIONS GOVERNING THE SUPERVISION OF**
107 **OCCUPATIONAL THERAPY ASSISTANTS, ADDING GROUNDS FOR**
108 **DISCIPLINING LICENSEES, REQUIRING LICENSEES TO MAINTAIN**
109 **PROFESSIONAL COMPETENCY, AND AUTHORIZING LICENSEES TO**
110 **ENTER INTO AGREEMENTS TO LIMIT PRACTICE WHEN SUFFERING**
111 **FROM A PHYSICAL OR MENTAL CONDITION.**

Bill Summary

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

(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://www.leg.state.co.us/bills/summaries>.)

Sunset Process - Senate Health and Human Services Committee. The bill implements the recommendations contained in the sunset review and report on the "Occupational Therapy Practice Act" (OTPA) by continuing the OTPA for 5 years and restoring provisions in the "Colorado Consumer Protection Act" (CCPA) that existed prior to the enactment of the OTPA. The provisions restored in the CCPA establish a deceptive trade practice, and thus trigger CCPA remedies, when a person claims to be an occupational therapist but has not earned the appropriate higher education degree, completed an internship, passed an examination given by a national organization, and obtained certification from a national organization.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 12-40.5-115
3 as follows:

4 **12-40.5-115. Repeal of article - review of functions.** This article
5 is repealed, effective ~~July 1, 2013~~ SEPTEMBER 1, 2018. Prior to ~~such~~ THE
6 repeal, THE DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW the
7 director's powers, duties, and functions under this article ~~shall be~~
8 ~~reviewed~~ as provided in section 24-34-104, C.R.S.

9 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **amend**
10 (43.5) introductory portion and (49.5) introductory portion; **repeal** (43.5)
11 (b) and (43.5) (c); and **add** (49.5) (e) as follows:

12 **24-34-104. General assembly review of regulatory agencies**
13 **and functions for termination, continuation, or reestablishment.**
14 (43.5) The following agencies, functions, or both, ~~shall~~ terminate on June
15 30, 2013:

1 (b) ~~The regulation of occupational therapists in accordance with~~
2 ~~article 40.5 of title 12, C.R.S.;~~

3 (c) ~~The regulation of occupational therapists and occupational~~
4 ~~therapy assistants in accordance with article 40.5 of title 12, C.R.S.~~

5 (49.5) The following agencies, functions, or both, shall terminate
6 on September 1, 2018:

7 (e) THE LICENSING OF OCCUPATIONAL THERAPISTS AND
8 OCCUPATIONAL THERAPY ASSISTANTS IN ACCORDANCE WITH ARTICLE 40.5
9 OF TITLE 12, C.R.S.

10 **SECTION 3.** In Colorado Revised Statutes, 12-40.5-103, **amend**
11 (2), (7), (8), (9) (c) (III), (9) (c) (VII), (9) (c) (IX), and (10); **repeal** (11);
12 and **add** (6.5) as follows:

13 **12-40.5-103. Definitions.** As used in this article, unless the
14 context otherwise requires:

15 (2) "Aide" means a person who is not ~~registered~~ LICENSED by the
16 director and who provides supportive services to occupational therapists
17 and occupational therapy assistants. An aide shall function only under the
18 guidance, responsibility, and supervision of a ~~registered~~ AN occupational
19 therapist OR OCCUPATIONAL THERAPY ASSISTANT. The aide shall perform
20 only specifically selected tasks for which the aide has been trained and
21 has demonstrated competence to the ~~registered~~ occupational therapist or
22 occupational therapy assistant.

23 (6.5) "LICENSEE" MEANS A PERSON LICENSED UNDER THIS ARTICLE
24 AS AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT.

25 (7) "Low vision rehabilitation services" means the evaluation,
26 diagnosis, management, and care of the low vision patient IN VISUAL
27 ACUITY AND VISUAL FIELD AS IT AFFECTS THE PATIENT'S OCCUPATIONAL

1 PERFORMANCE, including low vision rehabilitation therapy, education,
2 and interdisciplinary consultation.

3 (8) "Occupational therapist" means a person ~~registered~~ LICENSED
4 to practice occupational therapy under this article.

5 (9) "Occupational therapy" means the therapeutic use of everyday
6 life activities with individuals or groups for the purpose of participation
7 in roles and situations in home, school, workplace, community, and other
8 settings. The practice of occupational therapy includes:

9 (c) Interventions and procedures to promote or enhance safety and
10 performance in activities of daily living, instrumental activities of daily
11 living, education, work, play, leisure, and social participation, including:

12 (III) IDENTIFICATION, development, remediation, or compensation
13 of physical, cognitive, neuromuscular, ~~and sensory functions~~ PROCESSING,
14 and behavioral skills;

15 (VII) Consultative services to groups, programs, organizations, or
16 communities, INCLUDING THE USE OF TELEHEALTH;

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

23 (10) "Occupational therapy assistant" means a person ~~who has~~
24 ~~successfully completed an occupational therapy assistant program~~
25 ~~approved by the department to assist in the practice of occupational~~
26 ~~therapy~~ LICENSED UNDER THIS ARTICLE TO PRACTICE OCCUPATIONAL
27 THERAPY under the supervision of AND IN PARTNERSHIP WITH an

1 occupational therapist.

2 (11) ~~"Registrant" means an occupational therapist registered~~
3 ~~pursuant to this article.~~

4 **SECTION 4.** In Colorado Revised Statutes, **amend** 12-40.5-104
5 as follows:

6 **12-40.5-104. Use of titles restricted.** (1) Only a person ~~registered~~
7 LICENSED as an occupational therapist may use the titles "occupational
8 therapist ~~registered~~ LICENSED", "~~registered~~ "LICENSED occupational
9 therapist", "occupational therapist", or "~~doctorate~~ "DOCTOR of
10 occupational therapy" or use the abbreviation "O.T.", "O.T.D.", ~~or~~
11 "O.T.R.", "O.T./L.", "O.T.D./L.", OR "O.T.R./L.", or any other generally
12 accepted terms, letters, or figures that indicate that the person is an
13 occupational therapist.

14 (2) ONLY A PERSON LICENSED AS AN OCCUPATIONAL THERAPY
15 ASSISTANT MAY USE THE TITLE "OCCUPATIONAL THERAPY ASSISTANT
16 LICENSED" OR "LICENSED OCCUPATIONAL THERAPY ASSISTANT", USE THE
17 ABBREVIATION "O.T.A./L." OR "C.O.T.A./L.", OR USE ANY OTHER
18 GENERALLY ACCEPTED TERMS, LETTERS, OR FIGURES INDICATING THAT
19 THE PERSON IS AN OCCUPATIONAL THERAPY ASSISTANT.

20 **SECTION 5.** In Colorado Revised Statutes, **amend** 12-40.5-105
21 as follows:

22 **12-40.5-105. License required for occupational therapists and**
23 **occupational therapy assistants.** (1) Except as otherwise provided in
24 this article, a person shall not practice occupational therapy or represent
25 himself or herself as being able to practice occupational therapy in this
26 state without possessing a valid ~~registration~~ LICENSE issued by the
27 director in accordance with this article and any rules adopted under this

1 article.

2 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, A PERSON
3 SHALL NOT PRACTICE AS AN OCCUPATIONAL THERAPY ASSISTANT OR
4 REPRESENT HIMSELF OR HERSELF AS BEING ABLE TO PRACTICE AS AN
5 OCCUPATIONAL THERAPY ASSISTANT IN THIS STATE WITHOUT POSSESSING
6 A VALID LICENSE ISSUED BY THE DIRECTOR IN ACCORDANCE WITH THIS
7 ARTICLE AND ANY RULES ADOPTED UNDER THIS ARTICLE.

8 **SECTION 6.** In Colorado Revised Statutes, 12-40.5-106, **amend**
9 (1) introductory portion, (2) (a), (4), (5), and (6) as follows:

10 **12-40.5-106. Licensure of occupational therapists - application**
11 **- qualifications - rules.** (1) **Educational and experiential**
12 **requirements.** Every applicant for a ~~registration~~ LICENSE as an
13 occupational therapist ~~shall~~ MUST have:

14 (2) **Application.** (a) When an applicant has fulfilled the
15 requirements of subsection (1) of this section, the applicant may apply for
16 examination and ~~registration~~ LICENSURE upon payment of a fee in an
17 amount determined by the director. A person who fails an examination
18 may apply for reexamination upon payment of a fee in an amount
19 determined by the director.

20 (4) **Licensure.** When an applicant has fulfilled the requirements
21 of subsections (1) to (3) of this section, the director shall issue a
22 ~~registration~~ LICENSE to the applicant; except that the director may deny a
23 ~~registration~~ LICENSE if the applicant has committed any act that would be
24 grounds for disciplinary action under section 12-40.5-110.

25 (5) **Licensure by endorsement.** (a) An applicant for ~~registration~~
26 LICENSURE by endorsement ~~shall~~ MUST file an application and pay a fee
27 as prescribed by the director and ~~shall~~ MUST hold a current, valid license

1 or registration in a jurisdiction that requires qualifications substantially
2 equivalent to those required ~~for registration~~ by subsection (1) of this
3 section FOR LICENSURE.

4 (b) An applicant for ~~registration~~ LICENSURE BY ENDORSEMENT
5 ~~shall~~ MUST submit with the application verification that the applicant has
6 actively practiced for a period of time determined by rules of the director
7 or otherwise maintained continued competency as determined by the
8 director.

9 (c) Upon receipt of all documents required by paragraphs (a) and
10 (b) of this subsection (5), the director shall review the application and
11 make a determination of the applicant's qualification to be ~~registered~~
12 LICENSED by endorsement.

13 (d) The director may deny the ~~registration~~ APPLICATION FOR
14 LICENSURE BY ENDORSEMENT if the applicant has committed an act that
15 would be grounds for disciplinary action under section 12-40.5-110.

16 (6) **License renewal.** (a) ~~A registrant shall be required to~~ AN
17 OCCUPATIONAL THERAPIST MUST renew ~~the registration~~ HIS OR HER
18 LICENSE issued under this article according to a schedule of renewal dates
19 established by the director. ~~The registrant shall~~ OCCUPATIONAL THERAPIST
20 MUST submit an application in the form and manner designated by the
21 director and shall pay a renewal fee in an amount determined by the
22 director.

23 (b) ~~Registrations shall be~~ LICENSES ARE renewed or reinstated in
24 accordance with the schedule established by the director, and ~~such~~ THE
25 DIRECTOR SHALL GRANT A renewal or reinstatement ~~shall be granted~~
26 pursuant to section 24-34-102 (8), C.R.S. The director may establish
27 renewal fees and delinquency fees for reinstatement pursuant to section

1 24-34-105, C.R.S. If a ~~registrant~~ AN OCCUPATIONAL THERAPIST fails to
2 renew his or her ~~registration~~ LICENSE pursuant to the schedule established
3 by the director, the ~~registration shall expire~~ LICENSE EXPIRES. Any person
4 whose ~~registration has expired shall be~~ LICENSE EXPIRES IS subject to the
5 penalties provided in this article or section 24-34-102 (8), C.R.S., for
6 reinstatement.

7 **SECTION 7.** In Colorado Revised Statutes, **amend** 12-40.5-107
8 as follows:

9 **12-40.5-107. Supervision of occupational therapy assistants.**

10 (1) An occupational therapy assistant may practice only under the
11 supervision of an occupational therapist who is ~~registered~~ LICENSED to
12 practice occupational therapy in this state. The occupational therapist is
13 responsible for occupational therapy evaluation, appropriate
14 reassessment, treatment planning, ~~and~~ interventions, AND DISCHARGE
15 FROM OCCUPATIONAL THERAPY SERVICES based on standard professional
16 guidelines. Supervision of an occupational therapy assistant by an
17 occupational therapist is a shared responsibility. The supervising
18 occupational therapist and the supervised occupational therapy assistant
19 have legal and ethical responsibility for ongoing management of
20 supervision, including providing, requesting, giving, or obtaining
21 supervision. The SUPERVISING OCCUPATIONAL THERAPIST SHALL
22 DETERMINE THE frequency, level, and nature of supervision ~~shall be~~
23 ~~determined by the supervising occupational therapist~~ with input from the
24 occupational therapy assistant and shall ~~be based~~ BASE THE SUPERVISION
25 DETERMINATION on a variety of factors, including the clients' required
26 level of care, the treatment plan, and the experience and pertinent skills
27 of the occupational therapy assistant.

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

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

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

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

12 (d) HAS DEMONSTRATED COMPETENCE.

13 **SECTION 8.** In Colorado Revised Statutes, 12-40.5-108, **amend**
14 (1) introductory portion and (1) (d) as follows:

15 **12-40.5-108. Scope of article - exclusions.** (1) This article ~~shall~~
16 DOES not prevent or restrict the practice, services, or activities of:

17 (d) ~~The practice of~~ Occupational therapy in this state by any
18 legally qualified occupational therapist from another state or country
19 when providing services on behalf of a temporarily absent occupational
20 therapist ~~registered~~ LICENSED in this state, so long as the ~~unregistered~~
21 UNLICENSED occupational therapist is acting in accordance with rules
22 established by the director. The ~~unregistered~~ UNLICENSED practice ~~shall~~
23 MUST not be of more than four weeks' duration, and ~~no~~ THE DIRECTOR
24 SHALL NOT AUTHORIZE A person ~~shall be authorized by the director~~ to
25 undertake ~~such~~ UNLICENSED practice more than once in any twelve-month
26 period.

27 **SECTION 9.** In Colorado Revised Statutes, 12-40.5-110, **amend**

1 (1), (2) introductory portion, (2) (b), (2) (c), (2) (d), (2) (h), (2) (j), (2) (k),
2 (4) (a), (7) (b) (III), (12) (a), (13) (a), (13) (c) (III), and (14); and **add** (2)
3 (l) as follows:

4 **12-40.5-110. Grounds for discipline - disciplinary proceedings**
5 **- judicial review.** (1) The director may take disciplinary action against
6 a ~~registrant~~ LICENSEE if the director finds that the ~~registrant~~ LICENSEE has
7 represented himself or herself as a ~~registered~~ LICENSED occupational
8 therapist OR OCCUPATIONAL THERAPY ASSISTANT after the expiration,
9 suspension, or revocation of his or her ~~registration~~ LICENSE.

10 (2) The director may revoke, suspend, deny, or refuse to renew a
11 ~~registration~~ LICENSE or issue a cease-and-desist order to a ~~registrant~~
12 LICENSEE in accordance with this section upon proof that the ~~registrant~~
13 LICENSEE:

14 (b) Has falsified information in an application or has attempted to
15 obtain or has obtained a ~~registration~~ LICENSE by fraud, deception, or
16 misrepresentation;

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

23 (d) (I) Has FAILED TO NOTIFY THE DIRECTOR, AS REQUIRED BY
24 SECTION 12-40.5-114.5, OF a physical or mental condition or ~~disability~~
25 ILLNESS that ~~renders~~ IMPACTS the ~~registrant~~ ~~unable~~ LICENSEE'S ABILITY to
26 provide occupational therapy services with reasonable skill and safety or
27 that may endanger the health or safety of individuals receiving services;

1 (II) HAS FAILED TO ACT WITHIN THE LIMITATIONS CREATED BY A
2 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE PERSON
3 UNABLE TO PRACTICE OCCUPATIONAL THERAPY WITH REASONABLE SKILL
4 AND SAFETY OR THAT MAY ENDANGER THE HEALTH OR SAFETY OF
5 PERSONS UNDER HIS OR HER CARE; OR

6 (III) HAS FAILED TO COMPLY WITH THE LIMITATIONS AGREED TO
7 UNDER A CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION
8 12-40.5-114.5;

9 (h) Has fraudulently obtained, furnished, or sold any occupational
10 therapy diploma, certificate, ~~registration~~, LICENSE, OR renewal of
11 ~~registration~~ A LICENSE or record, or aided or abetted such act;

12 (j) Has refused to submit to a physical or mental examination
13 when ordered by the director pursuant to section 12-40.5-114; ~~or~~

14 (k) ~~Has otherwise violated any provision of this article or lawful~~
15 ~~order or rule of the director.~~ HAS ENGAGED IN ANY OF THE FOLLOWING
16 ACTIVITIES AND PRACTICES:

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

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

21 (III) ORDERING OR PERFORMING ANY SERVICE OR TREATMENT,
22 WITHOUT CLINICAL JUSTIFICATION, THAT IS CONTRARY TO RECOGNIZED
23 STANDARDS OF THE PRACTICE OF OCCUPATIONAL THERAPY AS
24 INTERPRETED BY THE DIRECTOR; OR

25 (l) HAS OTHERWISE VIOLATED THIS ARTICLE OR ANY LAWFUL
26 ORDER OR RULE OF THE DIRECTOR.

27 (4) (a) The director may commence a proceeding to discipline a

1 ~~registrant~~ LICENSEE when the director has reasonable grounds to believe
2 that the ~~registrant~~ LICENSEE has committed an act enumerated in this
3 section or has violated a lawful order or rule of the director.

4 (7) (b) (III) Upon failure of any witness or ~~registrant~~ LICENSEE to
5 comply with a subpoena or process, the district court of the county in
6 which the subpoenaed person or ~~registrant~~ LICENSEE resides or conducts
7 business, upon application by the director with notice to the subpoenaed
8 person or ~~registrant~~ LICENSEE, may issue to the person or ~~registrant~~
9 LICENSEE an order requiring that person or ~~registrant~~ LICENSEE to appear
10 before the director; to produce the relevant papers, books, records,
11 documentary evidence, or materials if so ordered; or to give evidence
12 touching the matter under investigation or in question. If the person or
13 ~~registrant~~ LICENSEE fails to obey the order of the court, THE COURT MAY
14 HOLD the person or ~~registrant may be held~~ LICENSEE in contempt of court.

15 (12) (a) If it appears to the director, based upon credible evidence
16 as presented in a written complaint by any person, that a ~~registrant~~
17 LICENSEE is acting in a manner that is an imminent threat to the health and
18 safety of the public, or a person is acting or has acted without the required
19 ~~registration~~ LICENSE, the director may issue an order to cease and desist
20 ~~such~~ THE activity. The DIRECTOR SHALL SET FORTH IN THE order ~~shall set~~
21 ~~forth~~ the statutes and rules alleged to have been violated, the facts alleged
22 to have constituted the violation, and the requirement that all unlawful
23 acts or ~~unregistered~~ UNLICENSED practices immediately cease.

24 (13) (a) If it appears to the director, based upon credible evidence
25 as presented in a written complaint by any person, that a person has
26 violated any other provision of this article, in addition to any specific
27 powers granted pursuant to this article, the director may issue to the

1 person an order to show cause as to why the director should not issue a
2 final order directing the person to cease and desist from the unlawful act
3 or ~~unregistered~~ UNLICENSED practice.

4 (c) (III) If the director reasonably finds that the person against
5 whom the order to show cause was issued is acting or has acted without
6 the required ~~registration~~ LICENSE, or has ENGAGED or is about to engage
7 in acts or practices constituting violations of this article, THE DIRECTOR
8 MAY ISSUE a final cease-and-desist order ~~may be issued~~ directing the
9 person to cease and desist from further unlawful acts or ~~unregistered~~
10 UNLICENSED practices.

11 (14) If it appears to the director, based upon credible evidence
12 presented to the director, that a person has engaged or is about to engage
13 in an ~~unregistered~~ UNLICENSED act or practice; an act or practice
14 constituting a violation of this article, a rule promulgated pursuant to this
15 article, or an order issued pursuant to this article; or an act or practice
16 constituting grounds for administrative sanction pursuant to this article,
17 the director may enter into a stipulation with the person.

18 **SECTION 10.** In Colorado Revised Statutes, **amend** 12-40.5-111
19 as follows:

20 **12-40.5-111. Unauthorized practice - penalties.** A person who
21 practices or offers or attempts to practice occupational therapy without an
22 active ~~registration~~ LICENSE AS REQUIRED BY AND issued under this article
23 FOR OCCUPATIONAL THERAPISTS OR OCCUPATIONAL THERAPY ASSISTANTS
24 commits a class 2 misdemeanor and shall be punished as provided in
25 section 18-1.3-501, C.R.S., for the first offense. For the second or any
26 subsequent offense, the person commits a class 1 misdemeanor and shall
27 be punished as provided in section 18-1.3-501, C.R.S.

1 **SECTION 11.** In Colorado Revised Statutes, 12-40.5-114,
2 **amend** (1), (2), and (3) as follows:

3 **12-40.5-114. Mental and physical examination of licensees.**

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

15 (2) IN an order requiring a ~~registrant~~ LICENSEE to undergo a
16 mental or physical examination, ~~shall contain~~ THE DIRECTOR SHALL STATE
17 the basis of the director's reasonable cause to believe that the ~~registrant~~
18 LICENSEE is unable to practice with reasonable skill and safety. For
19 purposes of a disciplinary proceeding authorized under this article, the
20 ~~registrant shall be~~ LICENSEE IS deemed to have waived all objections to
21 the admissibility of the examining physician's or licensed health care
22 professional's testimony or examination reports on the grounds that they
23 are privileged communication.

24 (3) The ~~registrant~~ LICENSEE may submit to the director testimony
25 or examination reports from a physician chosen by the ~~registrant~~
26 LICENSEE and pertaining to any condition that the director has alleged may
27 preclude the ~~registrant~~ LICENSEE from practicing with reasonable skill and

1 safety. The DIRECTOR MAY CONSIDER THE testimony and reports submitted
2 by the ~~registrant may be considered~~ LICENSEE in conjunction with, but not
3 in lieu of, testimony and examination reports of the physician designated
4 by the director.

5 **SECTION 12.** In Colorado Revised Statutes, **add** 12-40.5-106.5,
6 12-40.5-109.3, 12-40.5-109.5, 12-40.5-114.5, and 12-40.5-114.7 as
7 follows:

8 **12-40.5-106.5. Occupational therapy assistants - licensure -**
9 **application - qualifications - rules. (1) Educational and experiential**
10 **requirements.** EVERY APPLICANT FOR A LICENSE AS AN OCCUPATIONAL
11 THERAPY ASSISTANT MUST HAVE:

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

18 (b) SUCCESSFULLY COMPLETED A MINIMUM PERIOD OF SUPERVISED
19 FIELDWORK EXPERIENCE REQUIRED BY THE RECOGNIZED EDUCATIONAL
20 INSTITUTION WHERE THE APPLICANT MET THE ACADEMIC REQUIREMENTS
21 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1). THE MINIMUM
22 PERIOD OF FIELDWORK EXPERIENCE FOR AN OCCUPATIONAL THERAPY
23 ASSISTANT IS SIXTEEN WEEKS OF SUPERVISED FIELDWORK EXPERIENCE OR
24 SATISFACTION OF ANY GENERALLY RECOGNIZED PAST STANDARDS THAT
25 IDENTIFIED MINIMUM FIELDWORK REQUIREMENTS AT THE TIME OF
26 GRADUATION.

27 (2) **Application.** (a) WHEN AN APPLICANT HAS FULFILLED THE

1 REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, THE APPLICANT MAY
2 APPLY FOR EXAMINATION AND LICENSURE UPON PAYMENT OF A FEE IN AN
3 AMOUNT DETERMINED BY THE DIRECTOR. A PERSON WHO FAILS AN
4 EXAMINATION MAY APPLY FOR REEXAMINATION UPON PAYMENT OF A FEE
5 IN AN AMOUNT DETERMINED BY THE DIRECTOR.

6 (b) THE APPLICANT MUST SUBMIT AN APPLICATION IN THE FORM
7 AND MANNER DESIGNATED BY THE DIRECTOR.

8 (3) **Examination.** EACH APPLICANT MUST PASS A NATIONALLY
9 RECOGNIZED EXAMINATION, APPROVED BY THE DIRECTOR, THAT
10 MEASURES THE MINIMUM LEVEL OF COMPETENCE NECESSARY FOR
11 CONSUMER PROTECTION. THE DIRECTOR MAY CONTRACT FOR ASSISTANCE
12 IN CREATING AND ADMINISTERING THE EXAMINATION.

13 (4) **Licensure.** WHEN AN APPLICANT HAS FULFILLED THE
14 REQUIREMENTS OF SUBSECTIONS (1) TO (3) OF THIS SECTION, THE
15 DIRECTOR SHALL ISSUE A LICENSE TO THE APPLICANT; EXCEPT THAT THE
16 DIRECTOR MAY DENY A LICENSE IF THE APPLICANT HAS COMMITTED ANY
17 ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION
18 12-40.5-110.

19 (5) **Licensure by endorsement.** (a) AN APPLICANT FOR
20 LICENSURE BY ENDORSEMENT MUST FILE AN APPLICATION AND PAY A FEE
21 AS PRESCRIBED BY THE DIRECTOR AND MUST HOLD A CURRENT, VALID
22 LICENSE OR REGISTRATION IN A JURISDICTION THAT REQUIRES
23 QUALIFICATIONS SUBSTANTIALLY EQUIVALENT TO THOSE REQUIRED FOR
24 LICENSURE BY SUBSECTION (1) OF THIS SECTION.

25 (b) AN APPLICANT FOR LICENSURE BY ENDORSEMENT MUST SUBMIT
26 WITH THE APPLICATION VERIFICATION THAT THE APPLICANT HAS ACTIVELY
27 PRACTICED AS AN OCCUPATIONAL THERAPY ASSISTANT FOR A PERIOD OF

1 TIME DETERMINED BY RULES OF THE DIRECTOR OR OTHERWISE
2 MAINTAINED CONTINUED COMPETENCY AS AN OCCUPATIONAL THERAPY
3 ASSISTANT AS DETERMINED BY THE DIRECTOR.

4 (c) UPON RECEIPT OF ALL DOCUMENTS REQUIRED BY PARAGRAPHS
5 (a) AND (b) OF THIS SUBSECTION (5), THE DIRECTOR SHALL REVIEW THE
6 APPLICATION AND MAKE A DETERMINATION OF THE APPLICANT'S
7 QUALIFICATION TO BE LICENSED BY ENDORSEMENT AS AN OCCUPATIONAL
8 THERAPY ASSISTANT.

9 (d) THE DIRECTOR MAY DENY THE LICENSE IF THE APPLICANT HAS
10 COMMITTED AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION
11 UNDER SECTION 12-40.5-110.

12 (6) **License renewal.** (a) AN OCCUPATIONAL THERAPY ASSISTANT
13 SHALL APPLY FOR RENEWAL OF A LICENSE ISSUED UNDER THIS ARTICLE IN
14 THE FORM AND MANNER DESIGNATED BY THE DIRECTOR.

15 (b) LICENSES ARE RENEWED OR REINSTATED IN ACCORDANCE WITH
16 THE SCHEDULE ESTABLISHED BY THE DIRECTOR, AND THE DIRECTOR SHALL
17 GRANT A RENEWAL OR REINSTATEMENT PURSUANT TO SECTION 24-34-102
18 (8), C.R.S. THE DIRECTOR MAY ESTABLISH RENEWAL FEES AND
19 DELINQUENCY FEES FOR REINSTATEMENT PURSUANT TO SECTION
20 24-34-105, C.R.S. IF AN OCCUPATIONAL THERAPY ASSISTANT FAILS TO
21 RENEW HIS OR HER LICENSE PURSUANT TO THE SCHEDULE ESTABLISHED BY
22 THE DIRECTOR, THE LICENSE EXPIRES. ANY PERSON WHOSE LICENSE HAS
23 EXPIRED IS SUBJECT TO THE PENALTIES PROVIDED IN THIS ARTICLE OR
24 SECTION 24-34-102 (8), C.R.S., FOR REINSTATEMENT.

25 (7) **Fees.** ALL FEES COLLECTED UNDER THIS SECTION SHALL BE
26 DETERMINED, COLLECTED, AND APPROPRIATED IN THE SAME MANNER AS
27 SET FORTH IN SECTION 24-34-105, C.R.S., AND PERIODICALLY ADJUSTED

1 IN ACCORDANCE WITH SECTION 24-75-402, C.R.S.

2 **12-40.5-109.3. Continuing professional competency - rules.**

3 (1) (a) EACH OCCUPATIONAL THERAPIST AND OCCUPATIONAL THERAPY
4 ASSISTANT SHALL MAINTAIN CONTINUING PROFESSIONAL COMPETENCY TO
5 PRACTICE OCCUPATIONAL THERAPY.

6 (b) THE DIRECTOR SHALL ESTABLISH A CONTINUING PROFESSIONAL
7 COMPETENCY PROGRAM THAT INCLUDES, AT A MINIMUM, THE FOLLOWING
8 ELEMENTS:

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

11 (II) DEVELOPMENT, EXECUTION, AND DOCUMENTATION OF A
12 LEARNING PLAN BASED ON THE SELF-ASSESSMENT DESCRIBED IN
13 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b); AND

14 (III) PERIODIC DEMONSTRATION OF KNOWLEDGE AND SKILLS
15 THROUGH DOCUMENTATION OF ACTIVITIES NECESSARY TO ENSURE AT
16 LEAST MINIMAL ABILITY TO SAFELY PRACTICE THE PROFESSION; EXCEPT
17 THAT AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY
18 ASSISTANT LICENSED PURSUANT TO THIS ARTICLE NEED NOT RETAKE THE
19 EXAMINATION REQUIRED BY SECTION 12-40.5-106 (3) OR 12-40.5-106.5
20 (3), RESPECTIVELY, FOR INITIAL LICENSURE.

21 (2) A LICENSEE SATISFIES THE CONTINUING COMPETENCY
22 REQUIREMENTS OF THIS SECTION IF THE LICENSEE MEETS THE CONTINUING
23 PROFESSIONAL COMPETENCY REQUIREMENTS OF ONE OF THE FOLLOWING
24 ENTITIES:

25 (a) AN ACCREDITING BODY APPROVED BY THE DIRECTOR; OR

26 (b) AN ENTITY APPROVED BY THE DIRECTOR.

27 (3) (a) AFTER THE PROGRAM IS ESTABLISHED, A LICENSEE MUST

1 SATISFY THE REQUIREMENTS OF THE PROGRAM IN ORDER TO RENEW OR
2 REINSTATE A LICENSE TO PRACTICE OCCUPATIONAL THERAPY.

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

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

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

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

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

23 **12-40.5-109.5. Protection of medical records - licensee's**
24 **obligations - verification of compliance - noncompliance grounds for**
25 **discipline - rules.** (1) EACH OCCUPATIONAL THERAPIST AND
26 OCCUPATIONAL THERAPY ASSISTANT RESPONSIBLE FOR PATIENT RECORDS
27 SHALL DEVELOP A WRITTEN PLAN TO ENSURE THE SECURITY OF PATIENT

1 MEDICAL RECORDS. THE PLAN MUST ADDRESS AT LEAST THE FOLLOWING:

2 (a) THE STORAGE AND PROPER DISPOSAL OF PATIENT MEDICAL
3 RECORDS;

4 (b) THE DISPOSITION OF PATIENT MEDICAL RECORDS IF THE
5 LICENSEE DIES, RETIRES, OR OTHERWISE CEASES TO PRACTICE OR PROVIDE
6 OCCUPATIONAL THERAPY SERVICES TO PATIENTS; AND

7 (c) THE METHOD BY WHICH PATIENTS MAY ACCESS OR OBTAIN
8 THEIR MEDICAL RECORDS PROMPTLY IF ANY OF THE EVENTS DESCRIBED IN
9 PARAGRAPH (b) OF THIS SUBSECTION (1) OCCURS.

10 (2) A LICENSEE SHALL INFORM EACH PATIENT IN WRITING OF THE
11 METHOD BY WHICH THE PATIENT MAY ACCESS OR OBTAIN HIS OR HER
12 MEDICAL RECORDS IF AN EVENT DESCRIBED IN PARAGRAPH (b) OF
13 SUBSECTION (1) OF THIS SECTION OCCURS.

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

18 (4) A LICENSEE WHO FAILS TO COMPLY WITH THIS SECTION IS
19 SUBJECT TO DISCIPLINE IN ACCORDANCE WITH SECTION 12-40.5-110.

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

22 **12-40.5-114.5. Confidential agreement to limit practice -**
23 **violation - grounds for discipline.** (1) IF AN OCCUPATIONAL THERAPIST
24 OR OCCUPATIONAL THERAPY ASSISTANT HAS A PHYSICAL OR MENTAL
25 ILLNESS OR CONDITION THAT RENDERS THE PERSON UNABLE TO PRACTICE
26 OCCUPATIONAL THERAPY WITH REASONABLE SKILL AND SAFETY TO
27 CLIENTS, THE OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY

1 ASSISTANT SHALL NOTIFY THE DIRECTOR OF THE ILLNESS OR CONDITION IN
2 A MANNER AND WITHIN A PERIOD DETERMINED BY THE DIRECTOR. THE
3 DIRECTOR MAY REQUIRE THE OCCUPATIONAL THERAPIST OR
4 OCCUPATIONAL THERAPY ASSISTANT TO SUBMIT TO AN EXAMINATION OR
5 REFER THE LICENSEE TO A PEER HEALTH ASSISTANCE PROGRAM
6 ESTABLISHED IN SECTION 12-40.5-114.7 TO EVALUATE THE EXTENT OF THE
7 ILLNESS OR CONDITION AND ITS IMPACT ON THE OCCUPATIONAL
8 THERAPIST'S OR OCCUPATIONAL THERAPY ASSISTANT'S ABILITY TO
9 PRACTICE OCCUPATIONAL THERAPY WITH REASONABLE SKILL AND SAFETY
10 TO CLIENTS.

11 (2) (a) UPON DETERMINING THAT AN OCCUPATIONAL THERAPIST OR
12 OCCUPATIONAL THERAPY ASSISTANT WITH A PHYSICAL OR MENTAL
13 ILLNESS OR CONDITION IS ABLE TO RENDER LIMITED SERVICES WITH
14 REASONABLE SKILL AND SAFETY TO CLIENTS, THE DIRECTOR MAY ENTER
15 INTO A CONFIDENTIAL AGREEMENT WITH THE OCCUPATIONAL THERAPIST
16 OR OCCUPATIONAL THERAPY ASSISTANT IN WHICH THE OCCUPATIONAL
17 THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT AGREES TO LIMIT HIS
18 OR HER PRACTICE BASED ON THE RESTRICTIONS IMPOSED BY THE ILLNESS
19 OR CONDITION, AS DETERMINED BY THE DIRECTOR.

20 (b) AS PART OF THE AGREEMENT, THE OCCUPATIONAL THERAPIST
21 OR OCCUPATIONAL THERAPY ASSISTANT IS SUBJECT TO PERIODIC
22 REEVALUATION OR MONITORING AS DETERMINED APPROPRIATE BY THE
23 DIRECTOR. THE DIRECTOR MAY REFER THE LICENSEE TO A PEER HEALTH
24 ASSISTANCE PROGRAM AUTHORIZED IN SECTION 12-40.5-114.7 FOR
25 REEVALUATION OR MONITORING.

26 (c) THE PARTIES MAY MODIFY OR DISSOLVE THE AGREEMENT AS
27 NECESSARY BASED ON THE RESULTS OF A REEVALUATION OR OF

1 MONITORING.

2 (3) BY ENTERING INTO AN AGREEMENT WITH THE DIRECTOR
3 PURSUANT TO THIS SECTION TO LIMIT HIS OR HER PRACTICE, AN
4 OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT IS NOT
5 ENGAGING IN ACTIVITIES THAT ARE GROUNDS FOR DISCIPLINE PURSUANT
6 TO SECTION 12-40.5-110. THE AGREEMENT DOES NOT CONSTITUTE A
7 RESTRICTION OR DISCIPLINE BY THE DIRECTOR. HOWEVER, IF THE
8 OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT FAILS
9 TO COMPLY WITH THE TERMS OF THE AGREEMENT, THE FAILURE
10 CONSTITUTES A PROHIBITED ACTIVITY PURSUANT TO SECTION 12-40.5-110
11 (1) (d), AND THE OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY
12 ASSISTANT IS SUBJECT TO DISCIPLINE IN ACCORDANCE WITH SECTION
13 12-40.5-110.

14 (4) THIS SECTION DOES NOT APPLY TO AN OCCUPATIONAL
15 THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT SUBJECT TO DISCIPLINE
16 FOR PROHIBITED ACTIVITIES AS DESCRIBED IN SECTION 12-40.5-110(1) (c).

17 **12-40.5-114.7. Peer health assistance program - fees -**
18 **administration - rules.** (1) (a) ON AND AFTER JULY 1, 2014, AS A
19 CONDITION OF LICENSURE AND RENEWAL IN THIS STATE, EVERY PERSON
20 APPLYING FOR A NEW LICENSE OR TO RENEW HIS OR HER LICENSE SHALL
21 PAY A FEE, FOR USE BY THE ADMINISTERING ENTITY SELECTED BY THE
22 DIRECTOR PURSUANT TO THIS SUBSECTION (1), IN AN AMOUNT NOT TO
23 EXCEED DOLLARS PER APPLICATION FOR A NEW LICENSE OR TO RENEW A
24 LICENSE. THE DIRECTOR MAY ADJUST THE MAXIMUM FEE AMOUNT ON
25 JANUARY 1, 2015, AND ANNUALLY THEREAFTER TO REFLECT CHANGES IN
26 THE UNITED STATES BUREAU OF STATISTICS CONSUMER PRICE INDEX FOR
27 THE DENVER-BOULDER CONSOLIDATED METROPOLITAN STATISTICAL AREA

1 FOR ALL URBAN CONSUMERS OR GOODS, OR ITS SUCCESSOR INDEX. THE
2 DIVISION SHALL FORWARD THE FEE TO THE CHOSEN ADMINISTERING
3 ENTITY FOR USE IN SUPPORTING DESIGNATED PROVIDERS SELECTED TO
4 PROVIDE ASSISTANCE TO LICENSEES NEEDING HELP IN DEALING WITH
5 PHYSICAL, EMOTIONAL, OR PSYCHOLOGICAL CONDITIONS THAT MAY BE
6 DETRIMENTAL TO THEIR ABILITY TO PRACTICE OCCUPATIONAL THERAPY.

7 (b) THE DIRECTOR SHALL SELECT ONE OR MORE PEER HEALTH
8 ASSISTANCE PROGRAMS AS DESIGNATED PROVIDERS. FOR PURPOSES OF
9 SELECTING DESIGNATED PROVIDERS, THE DIRECTOR SHALL USE A
10 COMPETITIVE BIDDING PROCESS THAT ENCOURAGES PARTICIPATION FROM
11 INTERESTED VENDORS. TO BE ELIGIBLE FOR DESIGNATION, A PEER HEALTH
12 ASSISTANCE PROGRAM MUST:

13 (I) PROVIDE FOR THE EDUCATION OF OCCUPATIONAL THERAPISTS
14 AND OCCUPATIONAL THERAPY ASSISTANTS WITH RESPECT TO THE
15 RECOGNITION AND PREVENTION OF PHYSICAL, EMOTIONAL, AND
16 PSYCHOLOGICAL CONDITIONS AND PROVIDE FOR INTERVENTION WHEN
17 NECESSARY OR UNDER CIRCUMSTANCES ESTABLISHED BY THE DIRECTOR
18 BY RULE;

19 (II) OFFER ASSISTANCE TO A LICENSEE IN IDENTIFYING PHYSICAL,
20 EMOTIONAL, OR PSYCHOLOGICAL CONDITIONS;

21 (III) EVALUATE THE EXTENT OF PHYSICAL, EMOTIONAL, OR
22 PSYCHOLOGICAL CONDITIONS AND REFER THE LICENSEE FOR APPROPRIATE
23 TREATMENT;

24 (IV) MONITOR THE STATUS OF A LICENSEE WHO HAS BEEN
25 REFERRED FOR TREATMENT;

26 (V) PROVIDE COUNSELING AND SUPPORT FOR THE LICENSEE AND
27 FOR THE FAMILY OF ANY LICENSEE REFERRED FOR TREATMENT;

1 (VI) AGREE TO RECEIVE REFERRALS FROM THE DIRECTOR; AND

2 (VII) AGREE TO MAKE ITS SERVICES AVAILABLE TO ALL LICENSED
3 OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS.

4 (c) THE DIRECTOR MAY SELECT AN ENTITY TO ADMINISTER THE
5 PEER HEALTH ASSISTANCE PROGRAM. AN ADMINISTERING ENTITY MUST BE
6 A NONPROFIT PRIVATE FOUNDATION THAT IS QUALIFIED UNDER SECTION
7 501 (c) (3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
8 AMENDED, AND THAT IS DEDICATED TO PROVIDING SUPPORT FOR
9 CHARITABLE, BENEVOLENT, EDUCATIONAL, AND SCIENTIFIC PURPOSES
10 THAT ARE RELATED TO OCCUPATIONAL THERAPY, OCCUPATIONAL
11 THERAPY EDUCATION, OCCUPATIONAL THERAPY RESEARCH AND SCIENCE,
12 AND OTHER OCCUPATIONAL THERAPY CHARITABLE PURPOSES.

13 (d) THE ADMINISTERING ENTITY SHALL:

14 (I) DISTRIBUTE THE MONEYS COLLECTED BY THE DIVISION, LESS
15 EXPENSES, TO THE DESIGNATED PROVIDER, AS DIRECTED BY THE
16 DIRECTOR;

17 (II) PROVIDE AN ANNUAL ACCOUNTING TO THE DIVISION OF ALL
18 AMOUNTS COLLECTED, EXPENSES INCURRED, AND AMOUNTS DISBURSED;
19 AND

20 (III) POST A SURETY PERFORMANCE BOND IN AN AMOUNT
21 SPECIFIED BY THE DIRECTOR TO SECURE PERFORMANCE UNDER THE
22 REQUIREMENTS OF THIS SECTION. THE ADMINISTERING ENTITY MAY
23 RECOVER THE ACTUAL ADMINISTRATIVE COSTS INCURRED IN PERFORMING
24 ITS DUTIES UNDER THIS SECTION IN AN AMOUNT NOT TO EXCEED TEN
25 PERCENT OF THE TOTAL AMOUNT COLLECTED.

26 (e) THE DIVISION SHALL COLLECT THE REQUIRED ANNUAL
27 PAYMENTS PAYABLE TO THE ADMINISTERING ENTITY FOR THE BENEFIT OF

1 THE ADMINISTERING ENTITY AND SHALL TRANSFER ALL PAYMENTS TO THE
2 ADMINISTERING ENTITY. ALL REQUIRED ANNUAL PAYMENTS COLLECTED
3 OR DUE FOR EACH FISCAL YEAR ARE CUSTODIAL FUNDS THAT ARE NOT
4 SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY, AND THE
5 DISTRIBUTION OF PAYMENTS TO THE ADMINISTERING ENTITY OR
6 EXPENDITURE OF THE PAYMENTS BY THE ADMINISTERING ENTITY DOES
7 NOT CONSTITUTE STATE FISCAL YEAR SPENDING FOR PURPOSES OF SECTION
8 20 OF ARTICLE X OF THE STATE CONSTITUTION.

9 (2) (a) ANY OCCUPATIONAL THERAPIST OR OCCUPATIONAL
10 THERAPY ASSISTANT WHO IS REFERRED BY THE DIRECTOR TO A PEER
11 HEALTH ASSISTANCE PROGRAM SHALL ENTER INTO A STIPULATION WITH
12 THE DIRECTOR PURSUANT TO SECTION 12-40.5-110 (14) BEFORE
13 PARTICIPATING IN THE PROGRAM. THE AGREEMENT MUST CONTAIN
14 SPECIFIC REQUIREMENTS AND GOALS TO BE MET BY THE PARTICIPANT,
15 INCLUDING THE CONDITIONS UNDER WHICH THE PROGRAM WILL BE
16 SUCCESSFULLY COMPLETED OR TERMINATED, AND A PROVISION THAT A
17 FAILURE TO COMPLY WITH THE REQUIREMENTS AND GOALS IS TO BE
18 PROMPTLY REPORTED TO THE DIRECTOR AND THAT SUCH FAILURE WILL
19 RESULT IN DISCIPLINARY ACTION BY THE DIRECTOR.

20 (b) NOTWITHSTANDING SECTIONS 12-40.5-110 AND 24-4-104,
21 C.R.S., THE DIRECTOR MAY IMMEDIATELY SUSPEND THE LICENSE OF ANY
22 OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT WHO
23 THE DIRECTOR HAS REFERRED TO A PEER HEALTH ASSISTANCE PROGRAM
24 AND WHO FAILS TO ATTEND OR TO COMPLETE THE PROGRAM. IF THE
25 LICENSEE OBJECTS TO THE SUSPENSION, HE OR SHE MAY SUBMIT A
26 WRITTEN REQUEST TO THE DIRECTOR FOR A FORMAL HEARING ON THE
27 SUSPENSION WITHIN TEN DAYS AFTER RECEIVING NOTICE OF THE

1 SUSPENSION, AND THE DIRECTOR SHALL GRANT THE REQUEST. IN THE
2 HEARING, THE LICENSEE BEARS THE BURDEN OF PROVING THAT HIS OR HER
3 LICENSE SHOULD NOT BE SUSPENDED.

4 (c) ANY LICENSEE WHO SELF-REFERS AND IS ACCEPTED INTO A
5 PEER HEALTH ASSISTANCE PROGRAM SHALL AFFIRM THAT, TO THE BEST OF
6 HIS OR HER KNOWLEDGE, INFORMATION, AND BELIEF, HE OR SHE KNOWS OF
7 NO INSTANCE IN WHICH HE OR SHE HAS VIOLATED THIS ARTICLE OR THE
8 RULES OF THE DIRECTOR, EXCEPT IN THOSE INSTANCES AFFECTED BY THE
9 LICENSEE'S PHYSICAL, EMOTIONAL, OR PSYCHOLOGICAL CONDITIONS.

10 (3) NOTHING IN THIS SECTION CREATES ANY LIABILITY OF THE
11 DIRECTOR, DIVISION, OR STATE OF COLORADO FOR THEIR ACTIONS IN
12 MAKING GRANTS TO PEER ASSISTANCE PROGRAMS, AND NO CIVIL ACTION
13 MAY BE BROUGHT OR MAINTAINED AGAINST THE DIRECTOR, DIVISION, OR
14 STATE FOR AN INJURY ALLEGED TO RESULT FROM THE ACTIVITIES OF ANY
15 STATE-FUNDED PEER ASSISTANCE PROGRAM OR FROM AN ACT OR OMISSION
16 OF A LICENSEE PARTICIPATING IN OR REFERRED BY A STATE-FUNDED PEER
17 ASSISTANCE PROGRAM. HOWEVER, THE STATE REMAINS LIABLE UNDER THE
18 "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24,
19 C.R.S., IF AN INJURY ALLEGED TO RESULT FROM AN ACT OR OMISSION OF
20 A LICENSEE PARTICIPATING IN OR REFERRED BY A STATE-FUNDED PEER
21 ASSISTANCE PROGRAM OCCURRED WHILE THE LICENSEE WAS PERFORMING
22 DUTIES AS AN EMPLOYEE OF THE STATE.

23 (4) THE DIRECTOR MAY PROMULGATE RULES NECESSARY TO
24 IMPLEMENT THIS SECTION.

25 **SECTION 13.** In Colorado Revised Statutes, 10-16-104, **amend**
26 (1.4) (a) (XI) as follows:

27 **10-16-104. Mandatory coverage provisions - definitions.**

1 (1.4) **Autism spectrum disorders.** (a) As used in this subsection (1.4),
2 unless the context otherwise requires:

3 (XI) "Therapeutic care" means services provided by a speech
4 therapist; an occupational therapist ~~registered~~ OR OCCUPATIONAL
5 THERAPY ASSISTANT LICENSED to practice occupational therapy pursuant
6 to article 40.5 of title 12, C.R.S.; a physical therapist licensed to practice
7 physical therapy pursuant to article 41 of title 12, C.R.S.; or an autism
8 services provider. "Therapeutic care" includes, but is not limited to,
9 speech, occupational, and applied behavior analytic and physical
10 therapies.

11 **SECTION 14. Effective date.** This act takes effect June 30,
12 2013.

13 **SECTION 15. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.