

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0145.02 Christy Chase x2008

SENATE BILL 13-180

SENATE SPONSORSHIP

Aguilar,

HOUSE SPONSORSHIP

Singer,

Senate Committees

Health & Human Services
Appropriations

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, 2020. 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 (51.5) introductory portion; **repeal** (43.5)
11 (b) and (43.5) (c); and **add** (51.5) (d) 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 (51.5) The following agencies, functions, or both, shall terminate
6 on September 1, 2020:

7 (d) 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) (IX), (9) (c) (XII), (9) (c) (XIII), and
12 (10); **repeal** (11); and **add** (6.5) and (9) (c) (XIV) 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 occupational
19 therapist. The aide shall perform only specifically selected tasks for which
20 the aide has been trained and has demonstrated competence to the
21 registered occupational therapist or occupational therapy assistant.

22 (6.5) "LICENSEE" MEANS A PERSON LICENSED UNDER THIS ARTICLE
23 AS AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT.

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

1 and interdisciplinary consultation.

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

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

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

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

14

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

21 (XII) Management of feeding, eating, and swallowing to enable
22 eating and feeding performance; and

23 (XIII) Application of physical agent modalities and therapeutic
24 procedures such as wound management; techniques to enhance sensory,
25 perceptual, and cognitive processing; and manual techniques to enhance
26 performance skills; AND

27 (XIV) THE USE OF TELEHEALTH PURSUANT TO RULES AS MAY BE

1 ADOPTED BY THE DIRECTOR.

2 (10) "Occupational therapy assistant" means a person ~~who has~~
3 ~~successfully completed an occupational therapy assistant program~~
4 ~~approved by the department to assist in the practice of occupational~~
5 ~~therapy~~ LICENSED UNDER THIS ARTICLE TO PRACTICE OCCUPATIONAL
6 THERAPY under the supervision of AND IN PARTNERSHIP WITH an
7 occupational therapist.

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

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

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

20 (2) ONLY A PERSON LICENSED AS AN OCCUPATIONAL THERAPY
21 ASSISTANT MAY USE THE TITLE "OCCUPATIONAL THERAPY ASSISTANT
22 LICENSED" OR "LICENSED OCCUPATIONAL THERAPY ASSISTANT", USE THE
23 ABBREVIATION "O.T.A./L." OR "C.O.T.A./L.", OR USE ANY OTHER
24 GENERALLY ACCEPTED TERMS, LETTERS, OR FIGURES INDICATING THAT
25 THE PERSON IS AN OCCUPATIONAL THERAPY ASSISTANT.

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

1 **12-40.5-105. License required for occupational therapists and**
2 **occupational therapy assistants - repeal.** (1) (a) PRIOR TO JUNE 1, 2014,
3 except as otherwise provided in this article, a person shall not practice
4 occupational therapy or represent himself or herself as being able to
5 practice occupational therapy in this state without possessing a valid
6 registration issued by the director in accordance with this article and any
7 rules adopted under this article. BEFORE JUNE 1, 2014, REFERENCES IN
8 THIS ARTICLE TO "LICENSE" INCLUDE "REGISTRATION" AND REFERENCES
9 TO "LICENSEE" AND "OCCUPATIONAL THERAPIST" INCLUDE "REGISTRANT"
10 AND "OCCUPATIONAL THERAPIST", RESPECTIVELY, AS THOSE TERMS WERE
11 DEFINED PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (1), AS
12 AMENDED.

13 (b) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE JUNE 1, 2014.

14 (2) (a) ON AND AFTER JUNE 1, 2014, EXCEPT AS OTHERWISE
15 PROVIDED IN THIS ARTICLE, A PERSON SHALL NOT PRACTICE
16 OCCUPATIONAL THERAPY OR REPRESENT HIMSELF OR HERSELF AS BEING
17 ABLE TO PRACTICE OCCUPATIONAL THERAPY IN THIS STATE WITHOUT
18 POSSESSING A VALID LICENSE ISSUED BY THE DIRECTOR IN ACCORDANCE
19 WITH THIS ARTICLE AND RULES ADOPTED PURSUANT TO THIS ARTICLE.

20 (b) ON JUNE 1, 2014, EACH ACTIVE OCCUPATIONAL THERAPY
21 REGISTRATION BECOMES AN ACTIVE OCCUPATIONAL THERAPY LICENSE BY
22 OPERATION OF LAW. THE CONVERSION FROM REGISTRATION TO LICENSURE
23 DOES NOT:

24 (I) AFFECT ANY PRIOR DISCIPLINE, LIMITATION, OR CONDITION
25 IMPOSED BY THE DIRECTOR ON AN OCCUPATIONAL THERAPIST'S
26 REGISTRATION;

27 (II) LIMIT THE DIRECTOR'S AUTHORITY OVER ANY REGISTRANT; OR

1 (III) AFFECT ANY PENDING INVESTIGATION OR ADMINISTRATIVE
2 PROCEEDING.

3 (c) THE DIRECTOR SHALL TREAT ANY APPLICATION FOR AN
4 OCCUPATIONAL THERAPY REGISTRATION PENDING ON JUNE 1, 2014, AS AN
5 APPLICATION FOR LICENSURE, WHICH APPLICATION IS SUBJECT TO THE
6 REQUIREMENTS ESTABLISHED BY THE DIRECTOR.

7 (3) ON AND AFTER JUNE 1, 2014, EXCEPT AS OTHERWISE
8 PROVIDED IN THIS ARTICLE, A PERSON SHALL NOT PRACTICE AS AN
9 OCCUPATIONAL THERAPY ASSISTANT OR REPRESENT HIMSELF OR HERSELF
10 AS BEING ABLE TO PRACTICE AS AN OCCUPATIONAL THERAPY ASSISTANT
11 IN THIS STATE WITHOUT POSSESSING A VALID LICENSE ISSUED BY THE
12 DIRECTOR IN ACCORDANCE WITH THIS ARTICLE AND ANY RULES ADOPTED
13 UNDER THIS ARTICLE.

14 **SECTION 6.** In Colorado Revised Statutes, 12-40.5-106, **amend**
15 (1) introductory portion, (2) (a), (3), (4), (5), and (6) as follows:

16 **12-40.5-106. Licensure of occupational therapists - application**
17 **- qualifications - rules. (1) Educational and experiential**
18 **requirements.** Every applicant for a ~~registration~~ LICENSE as an
19 occupational therapist ~~shall~~ MUST have:

20 (2) **Application.** (a) When an applicant has fulfilled the
21 requirements of subsection (1) of this section, the applicant may apply for
22 examination and ~~registration~~ LICENSURE upon payment of a fee in an
23 amount determined by the director. A person who fails an examination
24 may apply for reexamination upon payment of a fee in an amount
25 determined by the director.

26 (3) **Examination.** Each applicant shall pass a nationally
27 recognized examination approved by the director ~~The examination shall~~

1 measure THAT MEASURES the minimum level of competence necessary for
2 consumer protection. The director may contract for assistance in creating
3 and administering the examination PUBLIC HEALTH, SAFETY, AND
4 WELFARE.

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

10 (5) **Licensure by endorsement.** (a) An applicant for ~~registration~~
11 ~~LICENSURE~~ by endorsement shall MUST file an application and pay a fee
12 as prescribed by the director and shall MUST hold a current, valid license
13 or registration in a jurisdiction that requires qualifications substantially
14 equivalent to those required for ~~registration~~ by subsection (1) of this
15 section FOR LICENSURE.

16 (b) An applicant for ~~registration~~ LICENSURE BY ENDORSEMENT
17 shall MUST submit with the application verification that the applicant has
18 actively practiced for a period of time determined by rules of the director
19 or otherwise maintained continued competency as determined by the
20 director.

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

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

1 (6) **License renewal.** (a) ~~A registrant shall be required to~~ AN
2 OCCUPATIONAL THERAPIST MUST renew ~~the registration~~ HIS OR HER
3 LICENSE issued under this article according to a schedule of renewal dates
4 established by the director. ~~The registrant shall~~ OCCUPATIONAL THERAPIST
5 MUST submit an application in the form and manner designated by the
6 director and shall pay a renewal fee in an amount determined by the
7 director.

8 (b) ~~Registrations shall be~~ LICENSES ARE renewed or reinstated in
9 accordance with the schedule established by the director, and ~~such~~ THE
10 DIRECTOR SHALL GRANT A renewal or reinstatement ~~shall be granted~~
11 pursuant to section 24-34-102 (8), C.R.S. The director may establish
12 renewal fees and delinquency fees for reinstatement pursuant to section
13 24-34-105, C.R.S. ~~If a registrant~~ AN OCCUPATIONAL THERAPIST fails to
14 renew his or her ~~registration~~ LICENSE pursuant to the schedule established
15 by the director, ~~the registration shall expire~~ LICENSE EXPIRES. Any person
16 whose ~~registration has expired shall be~~ LICENSE EXPIRES IS subject to the
17 penalties provided in this article or section 24-34-102 (8), C.R.S., for
18 reinstatement.

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

21 **12-40.5-107. Supervision of occupational therapy assistants**
22 **and aides.** (1) An occupational therapy assistant may practice only under
23 the supervision of an occupational therapist who is ~~registered~~ LICENSED
24 to practice occupational therapy in this state. The occupational therapist
25 is responsible for occupational therapy evaluation, appropriate
26 reassessment, treatment planning, ~~and~~ interventions, AND DISCHARGE
27 FROM OCCUPATIONAL THERAPY SERVICES based on standard professional

1 guidelines. Supervision of an occupational therapy assistant by an
2 occupational therapist is a shared responsibility. The supervising
3 occupational therapist and the supervised occupational therapy assistant
4 have legal and ethical responsibility for ongoing management of
5 supervision, including providing, requesting, giving, or obtaining
6 supervision. The SUPERVISING OCCUPATIONAL THERAPIST SHALL
7 DETERMINE THE frequency, level, and nature of supervision ~~shall be~~
8 ~~determined by the supervising occupational therapist~~ with input from the
9 occupational therapy assistant and shall ~~be based~~ BASE THE SUPERVISION
10 DETERMINATION on a variety of factors, including the clients' required
11 level of care, the treatment plan, and the experience and pertinent skills
12 of the occupational therapy assistant.

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

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

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

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

24 (3) AN AIDE SHALL FUNCTION ONLY UNDER THE GUIDANCE,
25 RESPONSIBILITY, AND SUPERVISION OF AN OCCUPATIONAL THERAPIST OR
26 OCCUPATIONAL THERAPY ASSISTANT. THE AIDE SHALL PERFORM ONLY
27 SPECIFICALLY SELECTED TASKS FOR WHICH THE AIDE HAS BEEN TRAINED

1 AND HAS DEMONSTRATED COMPETENCE TO THE OCCUPATIONAL THERAPIST
2 OR OCCUPATIONAL THERAPY ASSISTANT. THE SUPERVISING OCCUPATIONAL
3 THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT SHALL SUPERVISE THE
4 AIDE IN A MANNER THAT ENSURES COMPLIANCE WITH THIS SUBSECTION (3)
5 AND IS SUBJECT TO DISCIPLINE UNDER SECTION 12-40.5-110 FOR FAILURE
6 TO PROPERLY SUPERVISE AN AIDE.

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

9 **12-40.5-108. Scope of article - exclusions.** (1) This article ~~shall~~
10 DOES not prevent or restrict the practice, services, or activities of:

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

20 **SECTION 9.** In Colorado Revised Statutes, 12-40.5-110, **amend**
21 (1), (2) introductory portion, (2) (b), (2) (c), (2) (d), (2) (h), (2) (j), (2) (k),
22 (4) (a), (7) (b) (III), (12) (a), (13) (a), (13) (c) (III), and (14); and **add** (2)
23 (l), (2) (m), (17), (18), and (19) as follows:

24 **12-40.5-110. Grounds for discipline - disciplinary proceedings**
25 **- judicial review.** (1) The director may take disciplinary action against
26 a ~~registrant~~ LICENSEE if the director finds that the ~~registrant~~ LICENSEE has
27 represented himself or herself as a ~~registered~~ LICENSED occupational

1 therapist OR OCCUPATIONAL THERAPY ASSISTANT after the expiration,
2 suspension, or revocation of his or her ~~registration~~ LICENSE.

3 (2) The director may revoke, suspend, deny, or refuse to renew a
4 ~~registration~~ LICENSE; PLACE A LICENSEE ON PROBATION; ISSUE A LETTER
5 OF ADMONITION TO A LICENSEE; or issue a cease-and-desist order to a
6 ~~registrant~~ LICENSEE in accordance with this section upon proof that the
7 ~~registrant~~ LICENSEE:

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

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

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

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

27 (III) HAS FAILED TO COMPLY WITH THE LIMITATIONS AGREED TO

1 UNDER A CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION
2 12-40.5-114.5;

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

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

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

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

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

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

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

20 (m) HAS OTHERWISE VIOLATED THIS ARTICLE OR ANY LAWFUL
21 ORDER OR RULE OF THE DIRECTOR.

22 (4) (a) The director may commence a proceeding to discipline a
23 ~~registrant~~ LICENSEE when the director has reasonable grounds to believe
24 that the ~~registrant~~ LICENSEE has committed an act enumerated in this
25 section or has violated a lawful order or rule of the director.

26 (7) (b) (III) Upon failure of any witness or ~~registrant~~ LICENSEE to
27 comply with a subpoena or process, the district court of the county in

1 which the subpoenaed person or ~~registrant~~ LICENSEE resides or conducts
2 business, upon application by the director with notice to the subpoenaed
3 person or ~~registrant~~ LICENSEE, may issue to the person or ~~registrant~~
4 LICENSEE an order requiring that person or ~~registrant~~ LICENSEE to appear
5 before the director; to produce the relevant papers, books, records,
6 documentary evidence, or materials if so ordered; or to give evidence
7 touching the matter under investigation or in question. If the person or
8 ~~registrant~~ LICENSEE fails to obey the order of the court, THE COURT MAY
9 HOLD the person or ~~registrant may be held~~ LICENSEE in contempt of court.

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

19 (13) (a) If it appears to the director, based upon credible evidence
20 as presented in a written complaint by any person, that a person has
21 violated any other provision of this article, in addition to any specific
22 powers granted pursuant to this article, the director may issue to the
23 person an order to show cause as to why the director should not issue a
24 final order directing the person to cease and desist from the unlawful act
25 or ~~unregistered~~ UNLICENSED practice.

26 (c) (III) If the director reasonably finds that the person against
27 whom the order to show cause was issued is acting or has acted without

1 the required ~~registration~~ LICENSE, or has ENGAGED or is about to engage
2 in acts or practices constituting violations of this article, THE DIRECTOR
3 MAY ISSUE a final cease-and-desist order ~~may be issued~~ directing the
4 person to cease and desist from further unlawful acts or ~~unregistered~~
5 UNLICENSED practices.

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

13 (17) (a) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
14 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES
15 NOT WARRANT FORMAL ACTION BUT SHOULD NOT BE DISMISSED AS BEING
16 WITHOUT MERIT, THE DIRECTOR MAY SEND A LETTER OF ADMONITION TO
17 THE LICENSEE.

18 (b) WHEN THE DIRECTOR SENDS A LETTER OF ADMONITION TO A
19 LICENSEE, THE DIRECTOR SHALL NOTIFY THE LICENSEE OF THE LICENSEE'S
20 RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER RECEIPT OF
21 THE LETTER, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED TO
22 ADJUDICATE THE PROPRIETY OF THE CONDUCT DESCRIBED IN THE LETTER
23 OF ADMONITION.

24 (c) IF THE LICENSEE TIMELY REQUESTS ADJUDICATION, THE
25 DIRECTOR SHALL VACATE THE LETTER OF ADMONITION AND PROCESS THE
26 MATTER BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

27 (18) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN

1 INSTANCE OF CONDUCT THAT DOES NOT WARRANT FORMAL ACTION BY THE
2 DIRECTOR AND, IN THE OPINION OF THE DIRECTOR, SHOULD BE DISMISSED,
3 BUT THE DIRECTOR HAS NOTICED CONDUCT BY THE LICENSEE THAT COULD
4 LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED, THE DIRECTOR MAY
5 SEND A CONFIDENTIAL LETTER OF CONCERN TO THE LICENSEE.

6 (19) ANY PERSON WHOSE LICENSE IS REVOKED OR WHO
7 SURRENDERS HIS OR HER LICENSE TO AVOID DISCIPLINE UNDER THIS
8 SECTION IS INELIGIBLE TO APPLY FOR A LICENSE UNDER THIS ARTICLE FOR
9 AT LEAST TWO YEARS AFTER THE DATE THE LICENSED IS REVOKED OR
10 SURRENDERED.

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

13 **12-40.5-111. Unauthorized practice - penalties.** A person who
14 practices or offers or attempts to practice occupational therapy without an
15 active ~~registration~~ LICENSE AS REQUIRED BY AND issued under this article
16 FOR OCCUPATIONAL THERAPISTS OR OCCUPATIONAL THERAPY ASSISTANTS
17 commits a class 2 misdemeanor and shall be punished as provided in
18 section 18-1.3-501, C.R.S., for the first offense. For the second or any
19 subsequent offense, the person commits a class 1 misdemeanor and shall
20 be punished as provided in section 18-1.3-501, C.R.S.

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

23 **12-40.5-114. Mental and physical examination of licensees.**

24 (1) If the director has reasonable cause to believe that a ~~registrant~~
25 LICENSEE is unable to practice with reasonable skill and safety, the
26 director may order the ~~registrant~~ LICENSEE to take a mental or physical
27 examination administered by a physician or other licensed health care

1 professional designated by the director. Except where due to
2 circumstances beyond the registrant's LICENSEE'S control, if the registrant
3 LICENSEE fails or refuses to undergo a mental or physical examination, the
4 director may suspend the registrant's registration LICENSEE'S LICENSE until
5 the director has made a determination of the registrant's LICENSEE'S fitness
6 to practice. The director shall proceed with an order for examination and
7 shall make his or her determination in a timely manner.

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

17 (3) The registrant LICENSEE may submit to the director testimony
18 or examination reports from a physician chosen by the registrant
19 LICENSEE and pertaining to any condition that the director has alleged may
20 preclude the registrant LICENSEE from practicing with reasonable skill and
21 safety. The DIRECTOR MAY CONSIDER THE testimony and reports submitted
22 by the registrant may be considered LICENSEE in conjunction with, but not
23 in lieu of, testimony and examination reports of the physician designated
24 by the director.

25 **SECTION 12.** In Colorado Revised Statutes, **add** 12-40.5-106.5,
26 12-40.5-109.3, 12-40.5-109.5, 12-40.5-114.5, and 12-40.5-114.7 as
27 follows:

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

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

11 (b) SUCCESSFULLY COMPLETED A MINIMUM PERIOD OF SUPERVISED
12 FIELDWORK EXPERIENCE REQUIRED BY THE RECOGNIZED EDUCATIONAL
13 INSTITUTION WHERE THE APPLICANT MET THE ACADEMIC REQUIREMENTS
14 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1). THE MINIMUM
15 PERIOD OF FIELDWORK EXPERIENCE FOR AN OCCUPATIONAL THERAPY
16 ASSISTANT IS SIXTEEN WEEKS OF SUPERVISED FIELDWORK EXPERIENCE OR
17 SATISFACTION OF ANY GENERALLY RECOGNIZED PAST STANDARDS THAT
18 IDENTIFIED MINIMUM FIELDWORK REQUIREMENTS AT THE TIME OF
19 GRADUATION.

20 (2) **Application.** (a) WHEN AN APPLICANT HAS FULFILLED THE
21 REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, THE APPLICANT MAY
22 APPLY FOR _____ LICENSURE UPON PAYMENT OF A FEE IN AN AMOUNT
23 DETERMINED BY THE DIRECTOR. _____

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

26 (3) **Examination.** EACH APPLICANT MUST PASS A NATIONALLY
27 RECOGNIZED EXAMINATION, APPROVED BY THE DIRECTOR, THAT

1 MEASURES THE MINIMUM LEVEL OF COMPETENCE NECESSARY FOR PUBLIC
2 HEALTH, SAFETY, AND WELFARE.

3 (4) **Licensure.** WHEN AN APPLICANT HAS FULFILLED THE
4 REQUIREMENTS OF SUBSECTIONS (1) TO (3) OF THIS SECTION, THE
5 DIRECTOR SHALL ISSUE A LICENSE TO THE APPLICANT; EXCEPT THAT THE
6 DIRECTOR MAY DENY A LICENSE IF THE APPLICANT HAS COMMITTED ANY
7 ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION
8 12-40.5-110.

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

15 (b) AN APPLICANT FOR LICENSURE BY ENDORSEMENT MUST SUBMIT
16 WITH THE APPLICATION VERIFICATION THAT THE APPLICANT HAS ACTIVELY
17 PRACTICED AS AN OCCUPATIONAL THERAPY ASSISTANT FOR A PERIOD OF
18 TIME DETERMINED BY RULES OF THE DIRECTOR OR OTHERWISE
19 MAINTAINED COMPETENCY AS AN OCCUPATIONAL THERAPY ASSISTANT
20 AS DETERMINED BY THE DIRECTOR.

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

26 (d) THE DIRECTOR MAY DENY THE LICENSE IF THE APPLICANT HAS
27 COMMITTED AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION

1 UNDER SECTION 12-40.5-110.

2 (6) **License renewal.** (a) AN OCCUPATIONAL THERAPY ASSISTANT
3 MUST RENEW HIS OR HER LICENSE ISSUED UNDER THIS ARTICLE
4 ACCORDING TO A SCHEDULE OF RENEWAL DATES ESTABLISHED BY THE
5 DIRECTOR. THE OCCUPATIONAL THERAPY ASSISTANT MUST SUBMIT AN
6 APPLICATION IN THE FORM AND MANNER DESIGNATED BY THE DIRECTOR
7 AND SHALL PAY A RENEWAL FEE IN AN AMOUNT DETERMINED BY THE
8 DIRECTOR.

9 (b) LICENSES ARE RENEWED OR REINSTATED IN ACCORDANCE WITH
10 THE SCHEDULE ESTABLISHED BY THE DIRECTOR, AND THE DIRECTOR SHALL
11 GRANT A RENEWAL OR REINSTATEMENT PURSUANT TO SECTION 24-34-102
12 (8), C.R.S. THE DIRECTOR MAY ESTABLISH RENEWAL FEES AND
13 DELINQUENCY FEES FOR REINSTATEMENT PURSUANT TO SECTION
14 24-34-105, C.R.S. IF AN OCCUPATIONAL THERAPY ASSISTANT FAILS TO
15 RENEW HIS OR HER LICENSE PURSUANT TO THE SCHEDULE ESTABLISHED BY
16 THE DIRECTOR, THE LICENSE EXPIRES. ANY PERSON WHOSE LICENSE ==
17 EXPIRES IS SUBJECT TO THE PENALTIES PROVIDED IN THIS ARTICLE OR
18 SECTION 24-34-102 (8), C.R.S., FOR REINSTATEMENT.

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20 **12-40.5-109.3. Continuing professional competency - rules.**

21 (1) (a) EACH OCCUPATIONAL THERAPIST AND OCCUPATIONAL THERAPY
22 ASSISTANT SHALL MAINTAIN CONTINUING PROFESSIONAL COMPETENCY TO
23 PRACTICE OCCUPATIONAL THERAPY.

24 (b) THE DIRECTOR SHALL ESTABLISH A CONTINUING PROFESSIONAL
25 COMPETENCY PROGRAM THAT INCLUDES, AT A MINIMUM, THE FOLLOWING
26 ELEMENTS:

27 (I) A SELF-ASSESSMENT OF THE KNOWLEDGE AND SKILLS OF A

1 LICENSEE SEEKING TO RENEW OR REINSTATE A LICENSE;

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

5 (III) PERIODIC DEMONSTRATION OF KNOWLEDGE AND SKILLS
6 THROUGH DOCUMENTATION OF ACTIVITIES NECESSARY TO ENSURE AT
7 LEAST MINIMAL ABILITY TO SAFELY PRACTICE THE PROFESSION; EXCEPT
8 THAT AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY
9 ASSISTANT LICENSED PURSUANT TO THIS ARTICLE NEED NOT RETAKE THE
10 EXAMINATION REQUIRED BY SECTION 12-40.5-106 (3) OR 12-40.5-106.5
11 (3), RESPECTIVELY, FOR INITIAL LICENSURE.

12 (2) A LICENSEE SATISFIES THE CONTINUING COMPETENCY
13 REQUIREMENTS OF THIS SECTION IF THE LICENSEE MEETS THE CONTINUING
14 PROFESSIONAL COMPETENCY REQUIREMENTS OF ONE OF THE FOLLOWING
15 ENTITIES:

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

17 (b) AN ENTITY APPROVED BY THE DIRECTOR.

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

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

26 (4) RECORDS OF ASSESSMENTS OR OTHER DOCUMENTATION
27 DEVELOPED OR SUBMITTED IN CONNECTION WITH THE CONTINUING

1 PROFESSIONAL COMPETENCY PROGRAM:

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

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

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

14 **12-40.5-109.5. Protection of medical records - licensee's**
15 **obligations - verification of compliance - noncompliance grounds for**
16 **discipline - rules.** (1) EACH OCCUPATIONAL THERAPIST AND
17 OCCUPATIONAL THERAPY ASSISTANT RESPONSIBLE FOR PATIENT RECORDS
18 SHALL DEVELOP A WRITTEN PLAN TO ENSURE THE SECURITY OF PATIENT
19 MEDICAL RECORDS. THE PLAN MUST ADDRESS AT LEAST THE FOLLOWING:

20 (a) THE STORAGE AND PROPER DISPOSAL OF PATIENT MEDICAL
21 RECORDS;

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

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

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

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

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

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

13 **12-40.5-114.5. Confidential agreement to limit practice -**
14 **violation - grounds for discipline.** (1) IF AN OCCUPATIONAL THERAPIST
15 OR OCCUPATIONAL THERAPY ASSISTANT HAS A PHYSICAL OR MENTAL
16 ILLNESS OR CONDITION THAT RENDERS THE PERSON UNABLE TO PRACTICE
17 OCCUPATIONAL THERAPY WITH REASONABLE SKILL AND SAFETY TO
18 CLIENTS, THE OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY
19 ASSISTANT SHALL NOTIFY THE DIRECTOR OF THE ILLNESS OR CONDITION IN
20 A MANNER AND WITHIN A PERIOD DETERMINED BY THE DIRECTOR. THE
21 DIRECTOR MAY REQUIRE THE OCCUPATIONAL THERAPIST OR
22 OCCUPATIONAL THERAPY ASSISTANT TO SUBMIT TO AN EXAMINATION
23 TO EVALUATE THE EXTENT OF THE ILLNESS OR CONDITION AND ITS
24 IMPACT ON THE OCCUPATIONAL THERAPIST'S OR OCCUPATIONAL THERAPY
25 ASSISTANT'S ABILITY TO PRACTICE OCCUPATIONAL THERAPY WITH
26 REASONABLE SKILL AND SAFETY TO CLIENTS.

27 (2) (a) UPON DETERMINING THAT AN OCCUPATIONAL THERAPIST OR

1 OCCUPATIONAL THERAPY ASSISTANT WITH A PHYSICAL OR MENTAL
2 ILLNESS OR CONDITION IS ABLE TO RENDER LIMITED SERVICES WITH
3 REASONABLE SKILL AND SAFETY TO CLIENTS, THE DIRECTOR MAY ENTER
4 INTO A CONFIDENTIAL AGREEMENT WITH THE OCCUPATIONAL THERAPIST
5 OR OCCUPATIONAL THERAPY ASSISTANT IN WHICH THE OCCUPATIONAL
6 THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT AGREES TO LIMIT HIS
7 OR HER PRACTICE BASED ON THE RESTRICTIONS IMPOSED BY THE ILLNESS
8 OR CONDITION, AS DETERMINED BY THE DIRECTOR.

9 (b) AS PART OF THE AGREEMENT, THE OCCUPATIONAL THERAPIST
10 OR OCCUPATIONAL THERAPY ASSISTANT IS SUBJECT TO PERIODIC
11 REEVALUATION OR MONITORING AS DETERMINED APPROPRIATE BY THE
12 DIRECTOR.

13 (c) THE PARTIES MAY MODIFY OR DISSOLVE THE AGREEMENT AS
14 NECESSARY BASED ON THE RESULTS OF A REEVALUATION OR OF
15 MONITORING.

16 (3) BY ENTERING INTO AN AGREEMENT WITH THE DIRECTOR
17 PURSUANT TO THIS SECTION TO LIMIT HIS OR HER PRACTICE, AN
18 OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT IS NOT
19 ENGAGING IN ACTIVITIES THAT ARE GROUNDS FOR DISCIPLINE PURSUANT
20 TO SECTION 12-40.5-110. THE AGREEMENT DOES NOT CONSTITUTE A
21 RESTRICTION OR DISCIPLINE BY THE DIRECTOR. HOWEVER, IF THE
22 OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT FAILS
23 TO COMPLY WITH THE TERMS OF THE AGREEMENT, THE FAILURE
24 CONSTITUTES A PROHIBITED ACTIVITY PURSUANT TO SECTION 12-40.5-110
25 (1) (d), AND THE OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY
26 ASSISTANT IS SUBJECT TO DISCIPLINE IN ACCORDANCE WITH SECTION
27 12-40.5-110.

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

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5 **12-40.5-114.7. Professional liability insurance required - rules.**

6 (1) A PERSON SHALL NOT PRACTICE OCCUPATIONAL THERAPY UNLESS THE
7 PERSON PURCHASES AND MAINTAINS, OR IS COVERED BY, PROFESSIONAL
8 LIABILITY INSURANCE IN AN AMOUNT DETERMINED BY THE DIRECTOR BY
9 RULE THAT COVERS ALL ACTS WITHIN THE SCOPE OF PRACTICE OF THE
10 OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT.

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

17 **SECTION 13.** In Colorado Revised Statutes, 10-16-104, **amend**
18 (1.4) (a) (XI) as follows:

19 **10-16-104. Mandatory coverage provisions - definitions.**

20 (1.4) **Autism spectrum disorders.** (a) As used in this subsection (1.4),
21 unless the context otherwise requires:

22 (XI) "Therapeutic care" means services provided by a speech
23 therapist; an occupational therapist ~~registered~~ OR OCCUPATIONAL
24 THERAPY ASSISTANT LICENSED to practice occupational therapy pursuant
25 to article 40.5 of title 12, C.R.S.; a physical therapist licensed to practice
26 physical therapy pursuant to article 41 of title 12, C.R.S.; or an autism
27 services provider. "Therapeutic care" includes, but is not limited to,

1 speech, occupational, and applied behavior analytic and physical
2 therapies.

3 **SECTION 14. Effective date.** This act takes effect June 30,
4 2013.

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