

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 7, 2013

Date

Committee on Health & Human Services.

After consideration on the merits, the Committee recommends the following:

SB13-180 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 2, line 5, strike "2018." and substitute "2020."
- 2 Page 2, line 10, strike "(49.5)" and substitute "(51.5)".
- 3 Page 2, line 11, strike "(49.5) (e)" and substitute "(51.5) (d)".
- 4 Page 3, line 5, strike "(49.5)" and substitute "(51.5)".
- 5 Page 3, line 6, strike "2018:" and substitute "2020:".
- 6 Page 3, line 7, strike "(e)" and substitute "(d)".
- 7 Page 3, line 11, strike "(9) (c) (VII)," and after "(IX)," insert "(9) (c)
- 8 (XII), (9) (c) (XIII),".
- 9 Page 3, line 12, after "(6.5)" insert "and (9) (c) (XIV)".
- 10 Page 3, strike lines 17 through 22 and substitute "and occupational
- 11 therapy assistants. ~~An aide shall function only under the guidance,~~
- 12 ~~responsibility, and supervision of a registered occupational therapist. The~~
- 13 ~~aide shall perform only specifically selected tasks for which the aide has~~
- 14 ~~been trained and has demonstrated competence to the registered~~
- 15 ~~occupational therapist or occupational therapy assistant."~~

- 1 Page 4, line 13, strike "~~functions~~" and substitute "functions, SENSORY".
- 2 Page 4, strike lines 15 and 16.
- 3 Page 4, after line 22 insert:
- 4 (XII) Management of feeding, eating, and swallowing to enable
 5 eating and feeding performance; ~~and~~
 6 (XIII) Application of physical agent modalities and therapeutic
 7 procedures such as wound management; techniques to enhance sensory,
 8 perceptual, and cognitive processing; and manual techniques to enhance
 9 performance skills; AND
 10 (XIV) THE USE OF TELEHEALTH PURSUANT TO RULES AS MAY BE
 11 ADOPTED BY THE DIRECTOR."
- 12 Page 5, line 23, strike "**assistants. (1) Except**" and substitute "**assistants**
 13 **- repeal. (1) (a) PRIOR TO JUNE 1, 2014, except**".
- 14 Page 5, line 26, strike "~~registration~~ LICENSE" and substitute "registration".
- 15 Page 6, line 1, after "article." add "BEFORE JUNE 1, 2014, REFERENCES IN
 16 THIS ARTICLE TO "LICENSE" INCLUDE "REGISTRATION" AND REFERENCES
 17 TO "LICENSEE" AND "OCCUPATIONAL THERAPIST" INCLUDE "REGISTRANT"
 18 AND "OCCUPATIONAL THERAPIST", RESPECTIVELY, AS THOSE TERMS WERE
 19 DEFINED PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (1), AS
 20 AMENDED.
- 21 (b) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE JUNE 1, 2014.
- 22 (2) (a) ON AND AFTER JUNE 1, 2014, EXCEPT AS OTHERWISE
 23 PROVIDED IN THIS ARTICLE, A PERSON SHALL NOT PRACTICE
 24 OCCUPATIONAL THERAPY OR REPRESENT HIMSELF OR HERSELF AS BEING
 25 ABLE TO PRACTICE OCCUPATIONAL THERAPY IN THIS STATE WITHOUT
 26 POSSESSING A VALID LICENSE ISSUED BY THE DIRECTOR IN ACCORDANCE
 27 WITH THIS ARTICLE AND RULES ADOPTED PURSUANT TO THIS ARTICLE.
- 28 (b) ON JUNE 1, 2014, EACH ACTIVE OCCUPATIONAL THERAPY
 29 REGISTRATION BECOMES AN ACTIVE OCCUPATIONAL THERAPY LICENSE BY
 30 OPERATION OF LAW. THE CONVERSION FROM REGISTRATION TO LICENSURE
 31 DOES NOT:
- 32 (I) AFFECT ANY PRIOR DISCIPLINE, LIMITATION, OR CONDITION
 33 IMPOSED BY THE DIRECTOR ON AN OCCUPATIONAL THERAPIST'S
 34 REGISTRATION;
- 35 (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 Renumber succeeding subsection accordingly.

8 Page 6, line 2, strike "EXCEPT" and substitute "ON AND AFTER JUNE 1,
9 2014, EXCEPT".

10 Page 6, line 9, after "(a)," insert "(3),".

11 Page 6, after line 19 insert:

12 "(3) **Examination.** Each applicant shall pass a nationally
13 recognized examination approved by the director ~~The examination shall~~
14 ~~measure~~ THAT MEASURES the minimum level of competence necessary for
15 ~~consumer protection. The director may contract for assistance in creating~~
16 ~~and administering the examination~~ PUBLIC HEALTH, SAFETY, AND
17 WELFARE."

18 Page 7, line 7, strike "continued" and substitute "**continued**".

19 Page 8, line 9, strike "**assistants.**" and substitute "**assistants and aides.**".

20 Page 9, line 9, after "PROCEDURE;" add "AND".

21 Page 9, line 11, strike "TRAINING; AND" and substitute "TRAINING."

22 Page 9, strike line 12 and substitute:

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

1 AND IS SUBJECT TO DISCIPLINE UNDER SECTION 12-40.5-110 FOR FAILURE
2 TO PROPERLY SUPERVISE AN AIDE."

3 Page 9, line 23, strike "THE DIRECTOR".

4 Page 9, line 24, strike "SHALL NOT AUTHORIZE", strike "~~shall~~" and
5 substitute "shall", and strike "to" and substitute "~~to~~ NOT".

6 Page 10, line 3, strike "(l)" and substitute "(l), (2) (m), (17), (18), and
7 (19)".

8 Page 10, line 11, strike "LICENSE" and substitute "LICENSE; PLACE A
9 LICENSEE ON PROBATION; ISSUE A LETTER OF ADMONITION TO A
10 LICENSEE;"

11 Page 11, strike lines 21 through 24 and substitute:

12 "(III) AN ACT OR OMISSION THAT IS CONTRARY TO GENERALLY
13 ACCEPTED STANDARDS OF THE PRACTICE OF OCCUPATIONAL THERAPY;
14 (l) HAS FAILED TO PROVIDE ADEQUATE OR PROPER SUPERVISION OF
15 A LICENSED OCCUPATIONAL THERAPY ASSISTANT, OF AN AIDE, OR OF ANY
16 UNLICENSED PERSON IN THE OCCUPATIONAL THERAPY PRACTICE; OR"

17 Reletter succeeding paragraph accordingly.

18 Page 13, after line 17 insert:

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

24 (b) WHEN THE DIRECTOR SENDS A LETTER OF ADMONITION TO A
25 LICENSEE, THE DIRECTOR SHALL NOTIFY THE LICENSEE OF THE LICENSEE'S
26 RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER RECEIPT OF
27 THE LETTER, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED TO
28 ADJUDICATE THE PROPRIETY OF THE CONDUCT DESCRIBED IN THE LETTER
29 OF ADMONITION.

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

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

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

12 Page 16, line 2, strike "EXAMINATION AND".

13 Page 16, line 3, strike "A PERSON WHO FAILS AN".

14 Page 16, strike lines 4 and 5.

15 Page 16, strike lines 11 and 12 and substitute "PUBLIC HEALTH, SAFETY,
16 AND WELFARE."

17 Page 17, line 2, strike "CONTINUED".

18 Page 17, line 13, strike "SHALL APPLY FOR RENEWAL OF A" and substitute
19 "MUST RENEW HIS OR HER" and after "ARTICLE" insert "ACCORDING TO A
20 SCHEDULE OF RENEWAL DATES ESTABLISHED BY THE DIRECTOR. THE
21 OCCUPATIONAL THERAPY ASSISTANT MUST SUBMIT AN APPLICATION".

22 Page 17, line 14, strike "DIRECTOR." and substitute "DIRECTOR AND SHALL
23 PAY A RENEWAL FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR."

24 Page 17, line 22, strike "HAS".

25 Page 17, line 23, strike "EXPIRED" and substitute "EXPIRES".

26 Page 17, strike lines 25 through 27.

27 Page 18, strike line 1.

28 Page 21, line 4, strike "OR".

- 1 Page 21, strike line 5.
- 2 Page 21, line 6, strike "ESTABLISHED IN SECTION 12-40.5-114.7".
- 3 Page 21, strike lines 23 through 25 and substitute "DIRECTOR."
- 4 Page 22, strike lines 17 through 27.
- 5 Strike pages 23 through 25.
- 6 Page 26, strike lines 1 through 24 and substitute:

7 **"12-40.5-114.7. Professional liability insurance required -**
8 **rules.** (1) A PERSON SHALL NOT PRACTICE OCCUPATIONAL THERAPY
9 UNLESS THE PERSON PURCHASES AND MAINTAINS, OR IS COVERED BY,
10 PROFESSIONAL LIABILITY INSURANCE IN AN AMOUNT DETERMINED BY THE
11 DIRECTOR BY RULE THAT COVERS ALL ACTS WITHIN THE SCOPE OF
12 PRACTICE OF THE OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY
13 ASSISTANT.

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

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