

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REENGROSSED

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

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, AUTHORIZING LICENSEES TO**
110 **ENTER INTO AGREEMENTS TO LIMIT PRACTICE WHEN SUFFERING**
111 **FROM A PHYSICAL OR MENTAL CONDITION, AND MAKING AN**
112 **APPROPRIATION.**

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.

SENATE
3rd Reading Unamended
March 21, 2013

SENATE
Amended 2nd Reading
March 20, 2013

Bill Summary

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

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

1 30, 2013:

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

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

6 (51.5) The following agencies, functions, or both, shall terminate
7 on September 1, 2020:

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

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

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

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

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

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

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

1 (XIV) THE USE OF TELEHEALTH PURSUANT TO RULES AS MAY BE
2 ADOPTED BY THE DIRECTOR.

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

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

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

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

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

27 **SECTION 5.** In Colorado Revised Statutes, **amend** 12-40.5-105

1 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

27 (3) Examination. Each applicant shall pass a nationally

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

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

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

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

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

26 (d) The director may deny the ~~registration~~ APPLICATION FOR
27 LICENSURE BY ENDORSEMENT if the applicant has committed an act that

1 would be grounds for disciplinary action under section 12-40.5-110.

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

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

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

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

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

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

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

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

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

25 (3) AN AIDE SHALL FUNCTION ONLY UNDER THE GUIDANCE,
26 RESPONSIBILITY, AND SUPERVISION OF AN OCCUPATIONAL THERAPIST OR
27 OCCUPATIONAL THERAPY ASSISTANT. THE AIDE SHALL PERFORM ONLY

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

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

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

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

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

25 **12-40.5-110. Grounds for discipline - disciplinary proceedings**
26 **- judicial review.** (1) The director may take disciplinary action against
27 a ~~registrant~~ LICENSEE if the director finds that the ~~registrant~~ LICENSEE has

1 represented himself or herself as a ~~registered~~ LICENSED occupational
2 therapist OR OCCUPATIONAL THERAPY ASSISTANT after the expiration,
3 suspension, or revocation of his or her ~~registration~~ LICENSE.

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

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

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

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

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

1 (III) HAS FAILED TO COMPLY WITH THE LIMITATIONS AGREED TO
2 UNDER A CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION
3 12-40.5-114.5;

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

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

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

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

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

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

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

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

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

27 (7) (b) (III) Upon failure of any witness or ~~registrant~~ LICENSEE to

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

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

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

27 (c) (III) If the director reasonably finds that the person against

1 whom the order to show cause was issued is acting or has acted without
2 the required ~~registration~~ LICENSE, or has ENGAGED or is about to engage
3 in acts or practices constituting violations of this article, THE DIRECTOR
4 MAY ISSUE a final cease-and-desist order ~~may be issued~~ directing the
5 person to cease and desist from further unlawful acts or ~~unregistered~~
6 UNLICENSED practices.

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

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

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

25 (c) IF THE LICENSEE TIMELY REQUESTS ADJUDICATION, THE
26 DIRECTOR SHALL VACATE THE LETTER OF ADMONITION AND PROCESS THE
27 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 LICENSE IS REVOKED OR
11 SURRENDERED.

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

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

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

24 **12-40.5-114. Mental and physical examination of licensees.**

25 (1) If the director has reasonable cause to believe that a ~~registrant~~
26 LICENSEE is unable to practice with reasonable skill and safety, the
27 director may order the ~~registrant~~ LICENSEE to take a mental or physical

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

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

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

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

1 follows:

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

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

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

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

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

27 (3) **Examination.** EACH APPLICANT MUST PASS A NATIONALLY

1 RECOGNIZED EXAMINATION, APPROVED BY THE DIRECTOR, THAT
2 MEASURES THE MINIMUM LEVEL OF COMPETENCE NECESSARY FOR PUBLIC
3 HEALTH, SAFETY, AND WELFARE.

4 (4) **Licensure.** WHEN AN APPLICANT HAS FULFILLED THE
5 REQUIREMENTS OF SUBSECTIONS (1) TO (3) OF THIS SECTION, THE
6 DIRECTOR SHALL ISSUE A LICENSE TO THE APPLICANT; EXCEPT THAT THE
7 DIRECTOR MAY DENY A LICENSE IF THE APPLICANT HAS COMMITTED ANY
8 ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION
9 12-40.5-110.

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

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

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

27 (d) THE DIRECTOR MAY DENY THE LICENSE IF THE APPLICANT HAS

1 COMMITTED AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION
2 UNDER SECTION 12-40.5-110.

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

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

20

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21 **12-40.5-109.3. Continuing professional competency - rules.**

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

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

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

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

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

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

- 17 (a) AN ACCREDITING BODY APPROVED BY THE DIRECTOR; OR
- 18 (b) AN ENTITY APPROVED BY THE DIRECTOR.

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

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

27 (4) RECORDS OF ASSESSMENTS OR OTHER DOCUMENTATION

1 DEVELOPED OR SUBMITTED IN CONNECTION WITH THE CONTINUING
2 PROFESSIONAL COMPETENCY PROGRAM:

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

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

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

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

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

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

26 (c) THE METHOD BY WHICH PATIENTS MAY ACCESS OR OBTAIN
27 THEIR MEDICAL RECORDS PROMPTLY IF ANY OF THE EVENTS DESCRIBED IN

1 PARAGRAPH (b) OF THIS SUBSECTION (1) OCCURS.

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

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

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

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

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

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

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

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

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

1 12-40.5-110.

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

5

6 **12-40.5-114.7. Professional liability insurance required - rules.**

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

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

18 **SECTION 13.** In Colorado Revised Statutes, 10-16-104, **amend**
19 (1.4) (a) (XI) as follows:

20 **10-16-104. Mandatory coverage provisions - definitions.**

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

23 (XI) "Therapeutic care" means services provided by a speech
24 therapist; an occupational therapist ~~registered~~ OR OCCUPATIONAL
25 THERAPY ASSISTANT LICENSED to practice occupational therapy pursuant
26 to article 40.5 of title 12, C.R.S.; a physical therapist licensed to practice
27 physical therapy pursuant to article 41 of title 12, C.R.S.; or an autism

1 services provider. "Therapeutic care" includes, but is not limited to,
2 speech, occupational, and applied behavior analytic and physical
3 therapies.

4 **SECTION 14. Appropriation.** (1) In addition to any other
5 appropriation, there is hereby appropriated, out of any moneys in the
6 division of professions and occupations cash fund created in section
7 24-34-105 (2) (b) (I), Colorado Revised Statutes, not otherwise
8 appropriated, to the department of regulatory agencies, for the fiscal year
9 beginning July 1, 2013, the sum of \$37,737 and 0.2 FTE, or so much
10 thereof as may be necessary, to be allocated for the implementation of this
11 act as follows:

12 (a) \$8,174 and 0.2 FTE to the division of professions and
13 occupations for personal services;

14 (b) \$8,924 to the division of professions and occupations for
15 temporary and contract personnel;

16 (c) \$789 to the division of professions and occupations for
17 printing and imaging;

18 (d) \$12,746 to the executive director's office and administrative
19 services for the purchase of legal services; and

20 (e) \$7,104 to the executive director's office and administrative
21 services for the purchase of computer center services.

22 (2) In addition to any other appropriation, there is hereby
23 appropriated to the department of law, for the fiscal year beginning July
24 1, 2013, the sum of \$12,746, or so much thereof as may be necessary, for
25 the provision of legal services for the department of regulatory agencies
26 related to the implementation of this act. Said sum is from reappropriated
27 funds received from the department of regulatory agencies out of the

1 appropriation made in paragraph (d) of subsection (1) of this section.
2 (3) In addition to any other appropriation, there is hereby
3 appropriated to the governor - lieutenant governor - state planning and
4 budgeting, for the fiscal year beginning July 1, 2013, the sum of \$7,104,
5 or so much thereof as may be necessary, for allocation to the office of
6 information technology, for the provision of computer center services for
7 the department of regulatory agencies related to the implementation of
8 this act. Said sum is from reappropriated funds received from the
9 department of regulatory agencies out of the appropriation made in
10 paragraph (e) of subsection (1) of this section.

11 **SECTION 15. Effective date.** This act takes effect June 30,
12 2013.

13 **SECTION 16. 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.