

LLS No. 13-0145 _AMENDMENT #2
 SUNSET COMMITTEE AMENDMENT
 Senate Committee on Health and Human Services
 BY SENATOR Aguilar
 LLS No. 13-0145 be amended as follows:

1 Amend LLS No.13-0145, strike everything below the enacting clause and
 2 substitute:

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

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 6 is repealed, effective ~~July 1, 2013~~ SEPTEMBER 1, 2018.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

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

13 **24-34-104. General assembly review of regulatory agencies**
 14 **and functions for termination, continuation, or reestablishment.**
 15 (43.5) The following agencies, functions, or both, ~~shall~~ terminate on June
 16 30, 2013:

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

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

21 (49.5) The following agencies, functions, or both, ~~shall~~ terminate
 22 on September 1, 2018:

23 (e) THE LICENSING OF OCCUPATIONAL THERAPISTS AND
 24 OCCUPATIONAL THERAPY ASSISTANTS IN ACCORDANCE WITH ARTICLE 40.5
 25 OF TITLE 12, C.R.S.

26 **SECTION 3.** In Colorado Revised Statutes, 12-40.5-103, **amend**
 27 (2), (7), (8), (9) (c) (III), (9) (c) (VII), (9) (c) (IX), and (10); **repeal** (11);
 28 and **add** (6.5) as follows:

29 **12-40.5-103. Definitions.** As used in this article, unless the
 30 context otherwise requires:

31 (2) "Aide" means a person who is not ~~registered~~ LICENSED by the
 32 director and who provides supportive services to occupational therapists
 33 and occupational therapy assistants. An aide shall function only under the



1 guidance, responsibility, and supervision of a ~~registered~~ AN occupational
2 therapist OR OCCUPATIONAL THERAPY ASSISTANT. The aide shall perform
3 only specifically selected tasks for which the aide has been trained and
4 has demonstrated competence to the ~~registered~~ occupational therapist or
5 occupational therapy assistant.

6 (6.5) "LICENSEE" MEANS A PERSON LICENSED UNDER THIS ARTICLE
7 AS AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT.

8 (7) "Low vision rehabilitation services" means the evaluation,
9 diagnosis, management, and care of the low vision patient IN VISUAL
10 ACUITY AND VISUAL FIELD AS IT AFFECTS THE PATIENT'S OCCUPATIONAL
11 PERFORMANCE, including low vision rehabilitation therapy, education,
12 and interdisciplinary consultation.

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

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

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

22 (III) IDENTIFICATION, development, remediation, or compensation
23 of physical, cognitive, neuromuscular, and sensory functions PROCESSING,
24 and behavioral skills;

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

27 (IX) Assessment, design, fabrication, application, fitting, and
28 training in assistive technology AND adaptive AND ORTHOTIC devices AND
29 TRAINING IN THE USE OF PROSTHETIC DEVICES, excluding glasses, contact
30 lenses, or other prescriptive devices to correct vision unless prescribed by
31 an optometrist; and ~~orthotic devices and training in the use of prosthetic~~
32 ~~devices;~~

33 (10) "Occupational therapy assistant" means a person ~~who has~~
34 ~~successfully completed an occupational therapy assistant program~~
35 ~~approved by the department to assist in the practice of occupational~~
36 ~~therapy~~ LICENSED UNDER THIS ARTICLE TO PRACTICE OCCUPATIONAL
37 THERAPY under the supervision of AND IN PARTNERSHIP WITH an
38 occupational therapist.



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

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

5 **12-40.5-104. Use of titles restricted.** (1) Only a person registered
6 LICENSED as an occupational therapist may use the titles "occupational
7 therapist ~~registered~~ LICENSED", "~~registered~~ "LICENSED occupational
8 therapist", "occupational therapist", or "~~doctorate~~ "DOCTOR of
9 occupational therapy" or use the abbreviation "O.T.", "O.T.D.", or
10 "O.T.R.", "O.T./L.", "O.T.D./L.", OR "O.T.R./L.", or any other generally
11 accepted terms, letters, or figures that indicate that the person is an
12 occupational therapist.

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

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

21 **12-40.5-105. License required for occupational therapists and**
22 **occupational therapy assistants.** (1) Except as otherwise provided in
23 this article, a person shall not practice occupational therapy or represent
24 himself or herself as being able to practice occupational therapy in this
25 state without possessing a valid ~~registration~~ LICENSE issued by the
26 director in accordance with this article and any rules adopted under this
27 article.

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

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

36 **12-40.5-106. Licensure of occupational therapists - application**
37 **- qualifications - rules.** (1) **Educational and experiential**
38 **requirements.** Every applicant for a ~~registration~~ LICENSE as an



1 occupational therapist ~~shall~~ MUST have:

2 (2) **Application.** (a) When an applicant has fulfilled the
3 requirements of subsection (1) of this section, the applicant may apply for
4 examination and ~~registration~~ LICENSURE upon payment of a fee in an
5 amount determined by the director. A person who fails an examination
6 may apply for reexamination upon payment of a fee in an amount
7 determined by the director.

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

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

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

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

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

31 (6) **License renewal.** (a) ~~A registrant shall be required to AN~~
32 OCCUPATIONAL THERAPIST MUST renew ~~the registration~~ HIS OR HER
33 LICENSE issued under this article according to a schedule of renewal dates
34 established by the director. ~~The registrant shall~~ OCCUPATIONAL THERAPIST
35 MUST submit an application in the form and manner designated by the
36 director and shall pay a renewal fee in an amount determined by the
37 director.

38 (b) ~~Registrations shall be~~ LICENSES ARE renewed or reinstated in



1 accordance with the schedule established by the director, and ~~such~~ THE
2 DIRECTOR SHALL GRANT A renewal or reinstatement ~~shall be granted~~
3 pursuant to section 24-34-102 (8), C.R.S. The director may establish
4 renewal fees and delinquency fees for reinstatement pursuant to section
5 24-34-105, C.R.S. If ~~a registrant~~ AN OCCUPATIONAL THERAPIST fails to
6 renew his or her ~~registration~~ LICENSE pursuant to the schedule established
7 by the director, the ~~registration shall expire~~ LICENSE EXPIRES. Any person
8 whose ~~registration has expired shall be~~ LICENSE EXPIRES IS subject to the
9 penalties provided in this article or section 24-34-102 (8), C.R.S., for
10 reinstatement.

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

13 **12-40.5-107. Supervision of occupational therapy assistants.**

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

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

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

38 (b) OBTAINS PRIOR APPROVAL OF THE SUPERVISING OCCUPATIONAL



1 THERAPIST BEFORE MAKING ADJUSTMENTS TO A SPECIFIC TREATMENT
2 PROCEDURE;

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

5 (d) HAS DEMONSTRATED COMPETENCE.

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

8 **12-40.5-108. Scope of article - exclusions.** (1) This article ~~shall~~
9 DOES not prevent or restrict the practice, services, or activities of:

10 (d) ~~The practice of~~ Occupational therapy in this state by any
11 legally qualified occupational therapist from another state or country
12 when providing services on behalf of a temporarily absent occupational
13 therapist ~~registered~~ LICENSED in this state, so long as the ~~unregistered~~
14 UNLICENSED occupational therapist is acting in accordance with rules
15 established by the director. The ~~unregistered~~ UNLICENSED practice ~~shall~~
16 MUST not be of more than four weeks' duration, and ~~no~~ THE DIRECTOR
17 SHALL NOT AUTHORIZE A person ~~shall be authorized by the director to~~
18 undertake such UNLICENSED practice more than once in any twelve-month
19 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) 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
28 therapist OR OCCUPATIONAL THERAPY ASSISTANT after the expiration,
29 suspension, or revocation of his or her ~~registration~~ LICENSE.

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

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

37 (c) Is an excessive or habitual user or abuser of alcohol or
38 habit-forming drugs or is a habitual user of a controlled substance, as



1 defined in section 18-18-102, C.R.S., or other drugs having similar
2 effects; except that the director has the discretion not to discipline the
3 ~~registrant~~ LICENSEE if he or she is participating in good faith in a program
4 to end such use or abuse that the director has approved;

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

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

15 (III) HAS FAILED TO COMPLY WITH THE LIMITATIONS AGREED TO
16 UNDER A CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION
17 12-40.5-114.5;

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

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

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

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

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

30 (III) ORDERING OR PERFORMING ANY SERVICE OR TREATMENT,
31 WITHOUT CLINICAL JUSTIFICATION, THAT IS CONTRARY TO RECOGNIZED
32 STANDARDS OF THE PRACTICE OF OCCUPATIONAL THERAPY AS
33 INTERPRETED BY THE DIRECTOR; OR

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

36 (4) (a) The director may commence a proceeding to discipline a
37 ~~registrant~~ LICENSEE when the director has reasonable grounds to believe
38 that the ~~registrant~~ LICENSEE has committed an act enumerated in this



1 section or has violated a lawful order or rule of the director.

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

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

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

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

36 (14) If it appears to the director, based upon credible evidence
37 presented to the director, that a person has engaged or is about to engage
38 in an ~~unregistered~~ UNLICENSED act or practice; an act or practice



1 constituting a violation of this article, a rule promulgated pursuant to this
2 article, or an order issued pursuant to this article; or an act or practice
3 constituting grounds for administrative sanction pursuant to this article,
4 the director may enter into a stipulation with the person.

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

7 **12-40.5-111. Unauthorized practice - penalties.** A person who
8 practices or offers or attempts to practice occupational therapy without an
9 active ~~registration~~ LICENSE AS REQUIRED BY AND issued under this article
10 FOR OCCUPATIONAL THERAPISTS OR OCCUPATIONAL THERAPY ASSISTANTS
11 commits a class 2 misdemeanor and shall be punished as provided in
12 section 18-1.3-501, C.R.S., for the first offense. For the second or any
13 subsequent offense, the person commits a class 1 misdemeanor and shall
14 be punished as provided in section 18-1.3-501, C.R.S.

15 **SECTION 11.** In Colorado Revised Statutes, **amend** 12-40.5-114
16 (1), (2), and (3) as follows:

17 **12-40.5-114. Mental and physical examination of licensees.**

18 (1) If the director has reasonable cause to believe that a ~~registrant~~
19 LICENSEE is unable to practice with reasonable skill and safety, the
20 director may order the ~~registrant~~ LICENSEE to take a mental or physical
21 examination administered by a physician or other licensed health care
22 professional designated by the director. Except where due to
23 circumstances beyond the ~~registrant's~~ LICENSEE'S control, if the ~~registrant~~
24 LICENSEE fails or refuses to undergo a mental or physical examination, the
25 director may suspend the ~~registrant's registration~~ LICENSEE'S LICENSE until
26 the director has made a determination of the ~~registrant's~~ LICENSEE'S fitness
27 to practice. The director shall proceed with an order for examination and
28 shall make his or her determination in a timely manner.

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

38 (3) The ~~registrant~~ LICENSEE may submit to the director testimony



1 or examination reports from a physician chosen by the registrant
2 LICENSEE and pertaining to any condition that the director has alleged may
3 preclude the registrant LICENSEE from practicing with reasonable skill and
4 safety. The DIRECTOR MAY CONSIDER THE testimony and reports submitted
5 by the registrant ~~may be considered~~ LICENSEE in conjunction with, but not
6 in lieu of, testimony and examination reports of the physician designated
7 by the director.

8 **SECTION 12.** In Colorado Revised Statutes, add 12-40.5-106.5,
9 12-40.5-109.3, 12-40.5-109.5, 12-40.5-111.5, and 12-40.5-114.5 as
10 follows:

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

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

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

30 (2) **Application.** (a) WHEN AN APPLICANT HAS FULFILLED THE
31 REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, THE APPLICANT MAY
32 APPLY FOR EXAMINATION AND LICENSURE UPON PAYMENT OF A FEE IN AN
33 AMOUNT DETERMINED BY THE DIRECTOR. A PERSON WHO FAILS AN
34 EXAMINATION MAY APPLY FOR REEXAMINATION UPON PAYMENT OF A FEE
35 IN AN AMOUNT DETERMINED BY THE DIRECTOR.

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

38 (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
3 CONSUMER PROTECTION. THE DIRECTOR MAY CONTRACT FOR ASSISTANCE
4 IN CREATING AND ADMINISTERING THE EXAMINATION.

5 (4) **Licensure.** WHEN AN APPLICANT HAS FULFILLED THE
6 REQUIREMENTS OF SUBSECTIONS (1) TO (3) OF THIS SECTION, THE
7 DIRECTOR SHALL ISSUE A LICENSE TO THE APPLICANT; EXCEPT THAT THE
8 DIRECTOR MAY DENY A LICENSE IF THE APPLICANT HAS COMMITTED ANY
9 ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION
10 12-40.5-110.

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

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

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

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

31 (6) **License renewal.** (a) AN OCCUPATIONAL THERAPY
32 ASSISTANT MUST RENEW A LICENSE ISSUED UNDER THIS ARTICLE
33 ACCORDING TO A SCHEDULE OF RENEWAL DATES ESTABLISHED BY THE
34 DIRECTOR. THE OCCUPATIONAL THERAPY ASSISTANT MUST SUBMIT AN
35 APPLICATION IN THE FORM AND MANNER DESIGNATED BY THE DIRECTOR
36 AND MUST PAY A RENEWAL FEE IN AN AMOUNT DETERMINED BY THE
37 DIRECTOR.

38 (b) LICENSES ARE RENEWED OR REINSTATED IN ACCORDANCE WITH



1 THE SCHEDULE ESTABLISHED BY THE DIRECTOR, AND THE DIRECTOR SHALL
2 GRANT A RENEWAL OR REINSTATEMENT PURSUANT TO SECTION 24-34-102
3 (8), C.R.S. THE DIRECTOR MAY ESTABLISH RENEWAL FEES AND
4 DELINQUENCY FEES FOR REINSTATEMENT PURSUANT TO SECTION
5 24-34-105, C.R.S. IF AN OCCUPATIONAL THERAPY ASSISTANT FAILS TO
6 RENEW HIS OR HER LICENSE PURSUANT TO THE SCHEDULE ESTABLISHED BY
7 THE DIRECTOR, THE LICENSE EXPIRES. ANY PERSON WHOSE LICENSE HAS
8 EXPIRED IS SUBJECT TO THE PENALTIES PROVIDED IN THIS ARTICLE OR
9 SECTION 24-34-102 (8), C.R.S., FOR REINSTATEMENT.

10 (7) **Fees.** ALL FEES COLLECTED UNDER THIS SECTION SHALL BE
11 DETERMINED, COLLECTED, AND APPROPRIATED IN THE SAME MANNER AS
12 SET FORTH IN SECTION 24-34-105, C.R.S., AND PERIODICALLY ADJUSTED
13 IN ACCORDANCE WITH SECTION 24-75-402, C.R.S.

14 **12-40.5-109.3. Continuing professional competency - rules.**

15 (1) (a) EACH OCCUPATIONAL THERAPIST AND OCCUPATIONAL THERAPY
16 ASSISTANT SHALL MAINTAIN CONTINUING PROFESSIONAL COMPETENCY TO
17 PRACTICE OCCUPATIONAL THERAPY.

18 (b) THE DIRECTOR SHALL ESTABLISH A CONTINUING PROFESSIONAL
19 COMPETENCY PROGRAM THAT INCLUDES, AT A MINIMUM, THE FOLLOWING
20 ELEMENTS:

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

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

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

33 (2) A LICENSEE SATISFIES THE CONTINUING COMPETENCY
34 REQUIREMENTS OF THIS SECTION IF THE LICENSEE MEETS THE CONTINUING
35 PROFESSIONAL COMPETENCY REQUIREMENTS OF ONE OF THE FOLLOWING
36 ENTITIES:

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

38 (b) AN ENTITY APPROVED BY THE DIRECTOR.



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

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

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

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

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

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

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

30 (a) THE STORAGE AND PROPER DISPOSAL OF PATIENT MEDICAL
31 RECORDS;

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

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

38 (2) A LICENSEE SHALL INFORM EACH PATIENT IN WRITING OF THE



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

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

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

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

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

26 (2)(a) UPON DETERMINING THAT AN OCCUPATIONAL THERAPIST OR
27 OCCUPATIONAL THERAPY ASSISTANT WITH A PHYSICAL OR MENTAL
28 ILLNESS OR CONDITION IS ABLE TO RENDER LIMITED SERVICES WITH
29 REASONABLE SKILL AND SAFETY TO CLIENTS, THE DIRECTOR MAY ENTER
30 INTO A CONFIDENTIAL AGREEMENT WITH THE OCCUPATIONAL THERAPIST
31 OR OCCUPATIONAL THERAPY ASSISTANT IN WHICH THE OCCUPATIONAL
32 THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT AGREES TO LIMIT HIS
33 OR HER PRACTICE BASED ON THE RESTRICTIONS IMPOSED BY THE ILLNESS
34 OR CONDITION, AS DETERMINED BY THE DIRECTOR.

35 (b) AS PART OF THE AGREEMENT, THE OCCUPATIONAL THERAPIST
36 OR OCCUPATIONAL THERAPY ASSISTANT IS SUBJECT TO PERIODIC
37 REEVALUATIONS OR MONITORING AS DETERMINED APPROPRIATE BY THE
38 DIRECTOR.



1 (c) THE PARTIES MAY MODIFY OR DISSOLVE THE AGREEMENT AS
2 NECESSARY BASED ON THE RESULTS OF A REEVALUATION OR OF
3 MONITORING.

4 (3) BY ENTERING INTO AN AGREEMENT WITH THE DIRECTOR
5 PURSUANT TO THIS SECTION TO LIMIT HIS OR HER PRACTICE, AN
6 OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT IS NOT
7 ENGAGING IN ACTIVITIES THAT ARE GROUNDS FOR DISCIPLINE PURSUANT
8 TO SECTION 12-40.5-110. THE AGREEMENT DOES NOT CONSTITUTE A
9 RESTRICTION OR DISCIPLINE BY THE DIRECTOR. HOWEVER, IF THE
10 OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT FAILS
11 TO COMPLY WITH THE TERMS OF THE AGREEMENT, THE FAILURE
12 CONSTITUTES A PROHIBITED ACTIVITY PURSUANT TO SECTION 12-40.5-110
13 (1)(d), AND THE OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY
14 ASSISTANT IS SUBJECT TO DISCIPLINE IN ACCORDANCE WITH SECTION
15 12-40.5-110.

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

19 **SECTION 13.** In Colorado Revised Statutes, 10-16-104, **amend**
20 (1.4) (a) (IX) as follows:

21 **10-16-104. Mandatory coverage provisions - definitions.**
22 (1.4) **Autism spectrum disorders.** (a) As used in this subsection (1.4),
23 unless the context otherwise requires:

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

32 **SECTION 15. Effective date.** This act takes effect June 30,
33 2013.

34 **SECTION 16. Safety clause.** The general assembly hereby finds,
35 determines, and declares that this act is necessary for the immediate
36 preservation of the public peace, health, and safety."

37 Page 1, line 101, strike "SUNSET REVIEW OF" and substitute



1 "CONTINUATION OF".

2 Page 1, strike lines 103 through 110 and substitute "THEREWITH,
3 REQUIRING OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY
4 ASSISTANTS TO OBTAIN A LICENSE FROM THE DEPARTMENT OF
5 REGULATORY AGENCIES, MODIFYING PROVISIONS GOVERNING THE
6 SUPERVISION OF OCCUPATIONAL THERAPY ASSISTANTS, ADDING
7 GROUNDS FOR DISCIPLINING LICENSEES, REQUIRING LICENSEES TO
8 MAINTAIN PROFESSIONAL COMPETENCY, AND AUTHORIZING LICENSEES
9 TO ENTER INTO AGREEMENTS TO LIMIT PRACTICE WHEN SUFFERING
10 FROM A PHYSICAL OR MENTAL CONDITION."

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