

**ARTICLE 40.5 270**  
**OCCUPATIONAL THERAPY PRACTICE ACT**

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1           **12-270-101. [Formerly 12-40.5-101] Short title.** THE SHORT TITLE OF this article  
2 shall be known and may be cited as **270** IS the "Occupational Therapy Practice Act".  
3

4           **12-270-102. [Formerly 12-40.5-102] Legislative declaration.** (1) The general

1 assembly hereby finds, determines, and declares that:

2 (a) Occupational therapy services are provided for the purpose of promoting health  
3 and wellness to those who have or are at risk for developing an illness, injury, disease,  
4 disorder, condition, impairment, disability, activity limitation, or participation restriction;

5 (b) Occupational therapy addresses the physical, cognitive, psychosocial, sensory,  
6 and other aspects of performance in a variety of contexts to support engagement in everyday  
7 life activities that affect health, well-being, and quality of life;

8 (c) This act ARTICLE 270 is necessary to:

9 (I) Safeguard the public health, safety, and welfare; and

10 (II) Protect the public from incompetent, unethical, or unauthorized persons.

11 (2) The general assembly further determines that it is the purpose of this act ARTICLE  
12 270 to regulate persons who are representing themselves as occupational therapists **AND**  
13 **OCCUPATIONAL THERAPY ASSISTANTS** and who are performing services that constitute  
14 occupational therapy. <{***Recommend including OTAs in the legislative declaration. OK?***}>  
15

16 **12-270-103. Applicability of common provisions.** ARTICLES 1, 20, AND 30 OF THIS  
17 TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 270.  
18

19 **12-270-104. [Formerly 12-40.5-103] Definitions.** As used in this article 270, unless  
20 the context otherwise requires:

21 (1) "Activities of daily living" means activities that are oriented toward taking care  
22 of one's own body, such as bathing, showering, bowel and bladder management, dressing,  
23 eating, feeding, functional mobility, personal device care, personal hygiene and grooming,  
24 sexual activity, sleep, rest, and toilet hygiene.

25 (2) "Aide" means a person who is not licensed by the director and who provides  
26 supportive services to occupational therapists and occupational therapy assistants.

27 (3) "Department" means the department of regulatory agencies. <{***Redundant with***  
28 ***definitions common provision, 12-1-103 (1).***}>

29 (4) "Director" means the director of the division of professions and occupations.  
30 <{***Redundant with definitions common provision, 12-20-102 (6).***}>

31 (5) "Division" means the division of professions and occupations in the department  
32 of regulatory agencies created in section 24-34-102, C.R.S. <{***Redundant with definitions***  
33 ***common provision, 12-20-102 (7).***}>

34 (6) (3) "Instrumental activities of daily living" means activities that are oriented  
35 toward interacting with the environment and that may be complex. These activities are  
36 generally optional in nature and may be delegated to another person. "Instrumental activities  
37 of daily living" include care of others, care of pets, child-rearing, communication device use,  
38 community mobility, financial management, health management and maintenance, home  
39 establishment and management, meal preparation and cleanup, safety procedures and

1 emergency responses, and shopping.

2 ~~(6.5) "Licensee" means a person licensed under this article as an occupational~~  
3 ~~therapist or occupational therapy assistant. <{Redundant with definitions common~~  
4 ~~provision, 12-20-102 (10).}>~~

5 ~~(7)~~ (4) "Low vision rehabilitation services" means the evaluation, diagnosis,  
6 management, and care of the low vision patient in visual acuity and visual field as it affects  
7 the patient's occupational performance, including low vision rehabilitation therapy,  
8 education, and interdisciplinary consultation.

9 ~~(8)~~ (5) "Occupational therapist" means a person licensed to practice occupational  
10 therapy under this article **270**.

11 ~~(9)~~ (6) "Occupational therapy" means the therapeutic use of everyday life activities  
12 with individuals or groups for the purpose of participation in roles and situations in home,  
13 school, workplace, community, and other settings. The practice of occupational therapy  
14 includes:

15 (a) Methods or strategies selected to direct the process of interventions such as:

16 (I) Establishment, remediation, or restoration of a skill or ability that has not yet  
17 developed or is impaired;

18 (II) Compensation, modification, or adaptation of an activity or environment to  
19 enhance performance;

20 (III) Maintenance and enhancement of capabilities without which performance of  
21 everyday life activities would decline;

22 (IV) Promotion of health and wellness to enable or enhance performance in everyday  
23 life activities; and

24 (V) Prevention of barriers to performance, including disability prevention;

25 (b) Evaluation of factors affecting activities of daily living, instrumental activities  
26 of daily living, education, work, play, leisure, and social participation, including:

27 (I) Client factors, including body functions such as neuromuscular, sensory, visual,  
28 perceptual, and cognitive functions, and body structures such as cardiovascular, digestive,  
29 integumentary, and genitourinary systems;

30 (II) Habits, routines, roles, and behavior patterns;

31 (III) Cultural, physical, environmental, social, and spiritual contexts and activity  
32 demands that affect performance; and

33 (IV) Performance skills, including motor, process, and communication and  
34 interaction skills;

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

38 (I) Therapeutic use of occupations, exercises, and activities;

39 (II) Training in self-care, self-management, home management, and community and

1 work reintegration;

2 (III) Identification, development, remediation, or compensation of physical,  
3 cognitive, neuromuscular, sensory functions, sensory processing, and behavioral skills;

4 (IV) Therapeutic use of self, including a person's personality, insights, perceptions,  
5 and judgments, as part of the therapeutic process;

6 (V) Education and training of individuals, including family members, caregivers, and  
7 others;

8 (VI) Care coordination, case management, and transition services;

9 (VII) Consultative services to groups, programs, organizations, or communities;

10 (VIII) Modification of environments such as home, work, school, or community and  
11 adaptation of processes, including the application of ergonomic principles;

12 (IX) Assessment, design, fabrication, application, fitting, and training in assistive  
13 technology and adaptive and orthotic devices and training in the use of prosthetic devices,  
14 excluding glasses, contact lenses, or other prescriptive devices to correct vision unless  
15 prescribed by an optometrist;

16 (X) Assessment, recommendation, and training in techniques to enhance functional  
17 mobility, including wheelchair management;

18 (XI) Driver rehabilitation and community mobility;

19 (XII) Management of feeding, eating, and swallowing to enable eating and feeding  
20 performance;

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

24 (XIV) The use of telehealth pursuant to rules as may be adopted by the director.

25 ~~(7)~~ (7) "Occupational therapy assistant" means a person licensed under this article  
26 **270** to practice occupational therapy under the supervision of and in partnership with an  
27 occupational therapist.

28 ~~(11) Repealed.~~

29 ~~(12)~~ (8) "Supervision" means the giving of aid, directions, and instructions that are  
30 adequate to ensure the safety and welfare of clients during the provision of occupational  
31 therapy by the occupational therapist designated as the supervisor. Responsible direction and  
32 supervision by the occupational therapist shall include consideration of factors such as level  
33 of skill, the establishment of service competency, experience, work setting demands, the  
34 complexity and stability of the client population, and other factors. Supervision is a  
35 collaborative process for responsible, periodic review and inspection of all aspects of  
36 occupational therapy services and the occupational therapist is legally accountable for  
37 occupational therapy services provided by the occupational therapy assistant and the aide.

38 ~~(13)~~ (9) "Vision therapy services" means the assessment, diagnosis, treatment, and  
39 management of a patient with vision therapy, visual training, visual rehabilitation,

1 orthoptics, or eye exercises.  
2

3 **12-270-105. [Formerly 12-40.5-104] Use of titles restricted.** (1) Only a person  
4 licensed as an occupational therapist may use the title "occupational therapist licensed",  
5 "licensed occupational therapist", "occupational therapist", or "doctor of occupational  
6 therapy" or use the abbreviation "O.T.", "O.T.D.", "O.T.R.", "O.T./L.", "O.T.D./L.", or  
7 "O.T.R./L.", or any other generally accepted terms, letters, or figures that indicate that the  
8 person is an occupational therapist.

9 (2) Only a person licensed as an occupational therapy assistant may use the title  
10 "occupational therapy assistant licensed" or "licensed occupational therapy assistant", use  
11 the abbreviation "O.T.A./L." or "C.O.T.A./L.", or use any other generally accepted terms,  
12 letters, or figures indicating that the person is an occupational therapy assistant.  
13

14 **12-270-106. [Formerly 12-40.5-105] License required - occupational therapists**  
15 **- occupational therapy assistants.**

16 ~~(1) Repealed.~~

17 ~~(2)~~ (1) (a) On and after June 1, 2014, except as otherwise provided in this article **270**,  
18 a person shall not practice occupational therapy or represent himself or herself as being able  
19 to practice occupational therapy in this state without possessing a valid license issued by the  
20 director in accordance with this article **270** and rules adopted pursuant to this article **270**.

21 (b) On June 1, 2014, each active occupational therapy registration becomes an active  
22 occupational therapy license by operation of law. The conversion from registration to  
23 licensure does not:

24 (I) Affect any prior discipline, limitation, or condition imposed by the director on an  
25 occupational therapist's registration;

26 (II) Limit the director's authority over any registrant; or

27 (III) Affect any pending investigation or administrative proceeding.

28 (c) The director shall treat any application for an occupational therapy registration  
29 pending on June 1, 2014, as an application for licensure, which application is subject to the  
30 requirements established by the director.

31 ~~(3)~~ (2) On and after June 1, 2014, except as otherwise provided in this article **270**,  
32 a person shall not practice as an occupational therapy assistant or represent himself or herself  
33 as being able to practice as an occupational therapy assistant in this state without possessing  
34 a valid license issued by the director in accordance with this article **270** and any rules  
35 adopted under this article **270**.  
36

37 **12-270-107. [Formerly 12-40.5-106] Licensure of occupational therapists -**  
38 **application - qualifications - rules. (1) Educational and experiential requirements.**  
39 Every applicant for a license as an occupational therapist must have:

1 (a) Successfully completed the academic requirements of an educational program for  
2 occupational therapists that is offered by an institution of higher education and accredited  
3 by a national, regional, or state agency recognized by the United States secretary of  
4 education, or another ~~such~~ program accredited thereby and approved by the director.

5 (b) Successfully completed a minimum period of supervised fieldwork experience  
6 required by the recognized educational institution where the applicant met the academic  
7 requirements described in ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS  
8 SECTION. The minimum period of fieldwork experience for an occupational therapist is  
9 twenty-four weeks of supervised fieldwork experience or satisfaction of any generally  
10 recognized past standards that identified minimum fieldwork requirements at the time of  
11 graduation.

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

16 (b) The application shall be in the form and manner designated by the director.

17 (3) **Examination.** Each applicant shall pass a nationally recognized examination  
18 approved by the director that measures the minimum level of competence necessary for  
19 public health, safety, and welfare.

20 (4) **Licensure.** When an applicant has fulfilled the requirements of subsections (1)  
21 to (3) of this section, the director shall issue a license to the applicant; except that the  
22 director may deny a license if the applicant has committed any act that would be grounds for  
23 disciplinary action under section ~~12-40.5-110~~ **12-270-114**.

24 (5) **Licensure by endorsement.** (a) An applicant for licensure by endorsement must  
25 file an application and pay a fee as prescribed by the director and must hold a current, valid  
26 license or registration in a jurisdiction that requires qualifications substantially equivalent  
27 to those required by subsection (1) of this section for licensure.

28 (b) An applicant for licensure by endorsement must submit with the application  
29 verification that the applicant has actively practiced for a period of time determined by rules  
30 of the director or otherwise maintained competency as determined by the director.

31 (c) Upon receipt of all documents required by ~~paragraphs (a) and (b) of this~~  
32 ~~subsection (5)~~ SUBSECTIONS (5)(a) AND (5)(b) OF THIS SECTION, the director shall review the  
33 application and make a determination of the applicant's qualification to be licensed by  
34 endorsement.

35 (d) The director may deny the application for licensure by endorsement if the  
36 applicant has committed an act that would be grounds for disciplinary action under section  
37 ~~12-40.5-110~~ **12-270-114**.

38 (6) **License renewal.** ~~(a) An occupational therapist must renew his or her license~~  
39 ~~issued under this article according to a schedule of renewal dates established by the director.~~

1 The occupational therapist must submit an application in the form and manner designated  
2 by the director and shall pay a renewal fee in an amount determined by the director.

3 (b) Licenses ISSUED UNDER THIS SECTION are renewed or reinstated in accordance  
4 with the schedule established by the director, and the director shall grant a renewal or  
5 reinstatement pursuant to section 24-34-102 (8), C.R.S. The director may establish renewal  
6 fees and delinquency fees for reinstatement pursuant to section 24-34-105, C.R.S. If an  
7 occupational therapist fails to renew his or her license pursuant to the schedule established  
8 by the director, the license expires SUBJECT TO THE RENEWAL, EXPIRATION, REINSTATEMENT,  
9 AND DELINQUENCY FEE PROVISIONS SPECIFIED IN SECTION 12-20-202 (1) AND (2). Any person  
10 whose license expires is subject to the penalties provided in this article 270 or section  
11 24-34-102 (8), C.R.S., for reinstatement 12-20-202 (1). <{*Redundant with renewal /*  
12 *reinstatement / fees common provision, 12-20-202. Recommend amending as indicated.*}>

13 (7) ~~Fees.~~ All fees collected under this article shall be determined, collected, and  
14 appropriated in the same manner as set forth in section 24-34-105, C.R.S., and periodically  
15 adjusted in accordance with section 24-75-402, C.R.S. <{*Redundant with disposition of*  
16 *fees common provision, 12-20-105. Recommend repeal.*}>

17  
18 **12-270-108. [Formerly 12-40.5-106.5] Occupational therapy assistants - licensure**  
19 **- application - qualifications - rules. (1) Educational and experiential requirements.**  
20 Every applicant for a license as an occupational therapy assistant must have:

21 (a) Successfully completed the academic requirements of an educational program for  
22 occupational therapy assistants that is offered by an institution of higher education and  
23 accredited by a national, regional, or state agency recognized by the United States secretary  
24 of education, or another such program accredited thereby and approved by the director.

25 (b) Successfully completed a minimum period of supervised fieldwork experience  
26 required by the recognized educational institution where the applicant met the academic  
27 requirements described in paragraph (a) of this subsection (1) SUBSECTION (1)(a) OF THIS  
28 SECTION. The minimum period of fieldwork experience for an occupational therapy assistant  
29 is sixteen weeks of supervised fieldwork experience or satisfaction of any generally  
30 recognized past standards that identified minimum fieldwork requirements at the time of  
31 graduation.

32 (2) **Application.** (a) When an applicant has fulfilled the requirements of subsection  
33 (1) of this section, the applicant may apply for licensure upon payment of a fee in an amount  
34 determined by the director.

35 (b) The applicant must submit an application in the form and manner designated by  
36 the director.

37 (3) **Examination.** Each applicant must pass a nationally recognized examination,  
38 approved by the director, that measures the minimum level of competence necessary for  
39 public health, safety, and welfare.

1 (4) **Licensure.** When an applicant has fulfilled the requirements of subsections (1)  
2 to (3) of this section, the director shall issue a license to the applicant; except that the  
3 director may deny a license if the applicant has committed any act that would be grounds for  
4 disciplinary action under section ~~12-40.5-110~~ **12-270-114**.

5 (5) **Licensure by endorsement.** (a) An applicant for licensure by endorsement must  
6 file an application and pay a fee as prescribed by the director and must hold a current, valid  
7 license or registration in a jurisdiction that requires qualifications substantially equivalent  
8 to those required for licensure by subsection (1) of this section.

9 (b) An applicant for licensure by endorsement must submit with the application  
10 verification that the applicant has actively practiced as an occupational therapy assistant for  
11 a period of time determined by rules of the director or otherwise maintained competency as  
12 an occupational therapy assistant as determined by the director.

13 (c) Upon receipt of all documents required by ~~paragraphs (a) and (b) of this~~  
14 ~~subsection (5)~~ SUBSECTIONS (5)(a) AND (5)(b) OF THIS SECTION, the director shall review the  
15 application and make a determination of the applicant's qualification to be licensed by  
16 endorsement as an occupational therapy assistant.

17 (d) The director may deny the license if the applicant has committed an act that  
18 would be grounds for disciplinary action under section ~~12-40.5-110~~ **12-270-114**.

19 (6) **License renewal.** ~~(a) An occupational therapy assistant must renew his or her~~  
20 ~~license issued under this article according to a schedule of renewal dates established by the~~  
21 ~~director. The occupational therapy assistant must submit an application in the form and~~  
22 ~~manner designated by the director and shall pay a renewal fee in an amount determined by~~  
23 ~~the director.~~

24 **(b) Licenses ISSUED UNDER THIS SECTION are renewed or reinstated in accordance**  
25 **with the schedule established by the director, and the director shall grant a renewal or**  
26 **reinstatement pursuant to section 24-34-102 (8), C.R.S. The director may establish renewal**  
27 **fees and delinquency fees for reinstatement pursuant to section 24-34-105, C.R.S. If an**  
28 **occupational therapy assistant fails to renew his or her license pursuant to the schedule**  
29 **established by the director, the license expires SUBJECT TO THE RENEWAL, EXPIRATION,**  
30 **REINSTATEMENT, AND DELINQUENCY FEE PROVISIONS SPECIFIED IN SECTION 12-20-202 (1)**  
31 **AND (2). Any person whose license expires is subject to the penalties provided in this article**  
32 **270 or section 24-34-102 (8), C.R.S., for reinstatement 12-20-202 (1). <{Redundant with**  
33 ***renewal / reinstatement / fees common provision, 12-20-202. Recommend amending as***  
34 ***indicated.*>**

35  
36 **12-270-109. [Formerly 12-40.5-107] Supervision of occupational therapy**  
37 **assistants and aides.** (1) An occupational therapy assistant may practice only under the  
38 supervision of an occupational therapist who is licensed to practice occupational therapy in  
39 this state. The occupational therapist is responsible for occupational therapy evaluation,

1 appropriate reassessment, treatment planning, interventions, and discharge from  
2 occupational therapy services based on standard professional guidelines. Supervision of an  
3 occupational therapy assistant by an occupational therapist is a shared responsibility. The  
4 supervising occupational therapist and the supervised occupational therapy assistant have  
5 legal and ethical responsibility for ongoing management of supervision, including providing,  
6 requesting, giving, or obtaining supervision. The supervising occupational therapist shall  
7 determine the frequency, level, and nature of supervision with input from the occupational  
8 therapy assistant and shall base the supervision determination on a variety of factors,  
9 including the clients' required level of care, the treatment plan, and the experience and  
10 pertinent skills of the occupational therapy assistant.

11 (2) The supervising occupational therapist shall supervise the occupational therapy  
12 assistant in a manner that ensures that the occupational therapy assistant:

13 (a) Does not initiate or alter a treatment program without prior evaluation by and  
14 approval of the supervising occupational therapist;

15 (b) Obtains prior approval of the supervising occupational therapist before making  
16 adjustments to a specific treatment procedure; and

17 (c) Does not interpret data beyond the scope of the occupational therapy assistant's  
18 education and training.

19 (3) An aide shall function only under the guidance, responsibility, and supervision  
20 of an occupational therapist or occupational therapy assistant. The aide shall perform only  
21 specifically selected tasks for which the aide has been trained and has demonstrated  
22 competence to the occupational therapist or occupational therapy assistant. The supervising  
23 occupational therapist or occupational therapy assistant shall supervise the aide in a manner  
24 that ensures compliance with this subsection (3) and is subject to discipline under section  
25 ~~12-40.5-110~~ **12-270-114** for failure to properly supervise an aide.

26  
27 **12-270-110. [Formerly 12-40.5-108] Scope of article - exclusions.** (1) This article  
28 **270** does not prevent or restrict the practice, services, or activities of:

29 (a) A person licensed or otherwise regulated in this state by any other law from  
30 engaging in his or her profession or occupation as defined in the article under which he or  
31 she is licensed;

32 (b) A person pursuing a course of study leading to a degree in occupational therapy  
33 at an educational institution with an accredited occupational therapy program if that person  
34 is designated by a title that clearly indicates his or her status as a student and if he or she acts  
35 under appropriate instruction and supervision;

36 (c) A person fulfilling the supervised fieldwork experience requirements of section  
37 ~~12-40.5-106 (1)~~ **12-270-107 (1)** if the experience constitutes a part of the experience  
38 necessary to meet the requirement of section ~~12-40.5-106 (1)~~ **12-270-107 (1)** and the person  
39 acts under appropriate supervision; or

1 (d) Occupational therapy in this state by any legally qualified occupational therapist  
 2 from another state or country when providing services on behalf of a temporarily absent  
 3 occupational therapist licensed in this state, so long as the unlicensed occupational therapist  
 4 is acting in accordance with rules established by the director. The unlicensed practice must  
 5 not be of more than four weeks' duration, and a person shall not undertake unlicensed  
 6 practice more than once in any twelve-month period.

7  
 8 **12-270-111. [Formerly 12-40.5-109] Limitations on authority.** Nothing in this  
 9 article **270** shall be construed to authorize an occupational therapist to engage in the practice  
 10 of medicine, as defined in section ~~12-36-106~~ **12-240-107**; physical therapy, as defined in  
 11 article ~~41 285~~ of this title **12**; vision therapy services or low vision rehabilitation services,  
 12 except under the referral, prescription, supervision, or comanagement of an ophthalmologist  
 13 or optometrist; or any other form of healing except as authorized by this article **270**.

14  
 15 **12-270-112. [Formerly 12-40.5-109.3] Continuing professional competency -**  
 16 **definition.** (1) (a) Each occupational therapist and occupational therapy assistant shall  
 17 maintain continuing professional competency to practice occupational therapy.

18 (b) The director shall establish a continuing professional competency program that  
 19 includes, at a minimum, the following elements:

20 (I) A self-assessment of the knowledge and skills of a licensee seeking to renew or  
 21 reinstate a license;

22 (II) Development, execution, and documentation of a learning plan based on the  
 23 self-assessment described in ~~subparagraph (I) of this paragraph (b)~~ SUBSECTION (1)(b)(I) OF  
 24 THIS SECTION; and

25 (III) Periodic demonstration of knowledge and skills through documentation of  
 26 activities necessary to ensure at least minimal ability to safely practice the profession; except  
 27 that an occupational therapist or occupational therapy assistant licensed pursuant to this  
 28 article **270** need not retake the examination required by section ~~12-40.5-106(3)~~ **12-270-107**  
 29 **(3)** or ~~12-40.5-106.5(3)~~ **12-270-108 (3)**, respectively, for initial licensure.

30 (2) A licensee satisfies the continuing competency requirements of this section if the  
 31 licensee meets the continuing professional competency requirements of one of the following  
 32 entities:

33 (a) An accrediting body approved by the director; or

34 (b) An entity approved by the director.

35 (3) (a) After the program is established, a licensee must satisfy the requirements of  
 36 the program in order to renew or reinstate a license to practice occupational therapy.

37 (b) The requirements of this section apply to individual occupational therapists and  
 38 occupational therapy assistants, and nothing in this section requires a person who employs  
 39 or contracts with an occupational therapist or occupational therapy assistant to comply with

1 this section.

2 (4) Records of assessments or other documentation developed or submitted in  
3 connection with the continuing professional competency program:

4 (a) Are confidential and not subject to inspection by the public or discovery in  
5 connection with a civil action against an occupational therapist, occupational therapy  
6 assistant, or other professional regulated under this title *12*; and

7 (b) May be used only by the director and only for the purpose of determining whether  
8 a licensee is maintaining continuing professional competency to engage in the profession.

9 (5) As used in this section, "continuing professional competency" means the ongoing  
10 ability of a licensee to learn, integrate, and apply the knowledge, skill, and judgment to  
11 practice occupational therapy according to generally accepted standards and professional  
12 ethical standards.

13  
14 **12-270-113. [Formerly 12-40.5-109.5] Protection of medical records - licensee's  
15 obligations - verification of compliance - noncompliance grounds for discipline - rules.**

16 (1) Each occupational therapist and occupational therapy assistant responsible for patient  
17 records shall develop a written plan to ensure the security of patient medical records. The  
18 plan must address at least the following:

19 (a) The storage and proper disposal of patient medical records;

20 (b) The disposition of patient medical records if the licensee dies, retires, or  
21 otherwise ceases to practice or provide occupational therapy services to patients; and

22 (c) The method by which patients may access or obtain their medical records  
23 promptly if any of the events described in ~~paragraph (b) of this subsection (1)~~ SUBSECTION  
24 (1)(b) OF THIS SECTION occurs.

25 (2) A licensee shall inform each patient in writing of the method by which the patient  
26 may access or obtain his or her medical records if an event described in ~~paragraph (b) of~~  
27 ~~subsection (1)~~ SUBSECTION (1)(b) of this section occurs.

28 (3) Upon initial licensure under this article *270* and upon renewal of a license, the  
29 applicant or licensee shall attest to the director that he or she has developed a plan in  
30 compliance with this section.

31 (4) A licensee who fails to comply with this section is subject to discipline in  
32 accordance with section ~~12-40.5-110~~ *12-270-114*.

33 (5) The director may adopt rules reasonably necessary to implement this section.

34  
35 **12-270-114. [Formerly 12-40.5-110] Grounds for discipline - disciplinary  
36 proceedings - definitions - judicial review.** (1) The director may take disciplinary action  
37 against a licensee if the director finds that the licensee has represented himself or herself as  
38 a licensed occupational therapist or occupational therapy assistant after the expiration,  
39 suspension, or revocation of his or her license.

1 (2) The director may revoke, suspend, deny, or refuse to renew a license; place a  
 2 licensee on probation; issue a letter of admonition to a licensee TAKE DISCIPLINARY OR  
 3 OTHER ACTION AS AUTHORIZED IN SECTION 12-20-404 AGAINST, or issue a cease-and-desist  
 4 order to, a licensee in accordance with this section AND SECTIONS 12-20-403 AND 12-20-405,  
 5 AS APPLICABLE, upon proof that the licensee: <{*Redundant with disciplinary actions  
 6 common provision, 12-20-404. Recommend amending this subsection as indicated. Also  
 7 adding reference to disciplinary procedures common provision, 12-20-403, and  
 8 cease-and-desist orders common provision, 12-20-405.*>

9 (a) Has engaged in a sexual act with a person receiving services while a therapeutic  
 10 relationship existed or within six months immediately following termination of the  
 11 therapeutic relationship. For the purposes of this paragraph (a) SUBSECTION (2)(a):

12 (I) "Sexual act" means sexual contact, sexual intrusion, or sexual penetration, as  
 13 defined in section 18-3-401. ~~C.R.S.~~

14 (II) "Therapeutic relationship" means the period beginning with the initial evaluation  
 15 and ending upon the written termination of treatment.

16 (b) Has falsified information in an application or has attempted to obtain or has  
 17 obtained a license by fraud, deception, or misrepresentation;

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

23 (d) (I) Has failed to notify the director, as required by section ~~12-40.5-114.5~~  
 24 **12-30-107 (1)**, of a physical condition; a physical illness; or a behavioral, mental health, or  
 25 substance use disorder that impacts the licensee's ability to provide occupational therapy  
 26 services with reasonable skill and safety or that may endanger the health or safety of  
 27 individuals receiving services; <{*Adding reference to confidential agreements common  
 28 provision, 12-30-107, and specifically, to subsection (1), which requires notice to the  
 29 director.*>

30 (II) Has failed to act within the limitations created by a physical illness; a physical  
 31 condition; or a behavioral, mental health, or substance use disorder that renders the person  
 32 unable to practice occupational therapy with reasonable skill and safety or that may endanger  
 33 the health or safety of persons under his or her care; or

34 (III) Has failed to comply with the limitations agreed to under a confidential  
 35 agreement entered pursuant to section ~~12-40.5-114.5~~ SECTIONS 12-30-107 AND 12-270-118;

36 (e) Has violated this article 270 or aided or abetted or knowingly permitted any  
 37 person to violate this article 270, a rule adopted under this article 270, or any lawful order  
 38 of the director;

39 (f) Had a license or registration suspended or revoked for actions that are a violation

1 of this article **270**;

2 (g) Has been convicted of or pled guilty or nolo contendere to a felony or committed  
3 an act specified in section ~~12-40.5-111~~ **12-270-115**. A certified copy of the judgment of a  
4 court of competent jurisdiction of the conviction or plea shall be conclusive evidence of the  
5 conviction or plea. In considering the disciplinary action, the director shall be governed by  
6 ~~section~~ SECTIONS **12-20-202 (5)** AND 24-5-101. C.R.S.

7 (h) Has fraudulently obtained, furnished, or sold any occupational therapy diploma,  
8 certificate, license, or renewal of a license or record, or aided or abetted ~~such~~ THE act;

9 (i) Has failed to notify the director of the suspension or revocation of the person's  
10 past or currently held license, certificate, or registration required to practice occupational  
11 therapy in this or any other jurisdiction;

12 (j) Has refused to submit to a physical or mental examination when ordered by the  
13 director pursuant to ~~section 12-40.5-114~~ **SECTIONS 12-30-108 AND 12-270-117**; <{**Adding**  
14 **reference to mental/physical exams common provision, 12-30-108.**>

15 (k) Has engaged in any of the following activities and practices:

16 (I) Ordering or performing, without clinical justification, demonstrably unnecessary  
17 laboratory tests or studies;

18 (II) Administering treatment, without clinical justification, that is demonstrably  
19 unnecessary; or

20 (III) An act or omission that is contrary to generally accepted standards of the  
21 practice of occupational therapy;

22 (l) Has failed to provide adequate or proper supervision of a licensed occupational  
23 therapy assistant, of an aide, or of any unlicensed person in the occupational therapy  
24 practice; or

25 (m) Has otherwise violated this article **270** or any lawful order or rule of the director.

26 (3) Except as otherwise provided in subsection (2) of this section, the director need  
27 not find that the actions that are grounds for discipline were willful but may consider  
28 whether ~~such~~ THE actions were willful when determining the nature of disciplinary sanctions  
29 to be imposed.

30 (4) (a) The director may commence a proceeding to discipline a licensee when the  
31 director has reasonable grounds to believe that the licensee has committed an act enumerated  
32 in this section or has violated a lawful order or rule of the director.

33 (b) In any proceeding under this section, the director may accept as evidence of  
34 grounds for disciplinary action any disciplinary action taken against a licensee or registrant  
35 in another jurisdiction if the violation that prompted the disciplinary action in the other  
36 jurisdiction would be grounds for disciplinary action under this article **270**.

37 (5) **Disciplinary proceedings shall be conducted in accordance with SECTION**  
38 **12-20-403 AND article 4 of title 24. C.R.S., and the hearing and opportunity for review shall**  
39 **be conducted pursuant to that article by the director or by an administrative law judge, at the**

1 ~~director's discretion.~~ The director has the authority to exercise all powers and duties  
2 conferred by this article 270 during the disciplinary proceedings. <{*Redundant with*  
3 *disciplinary proceedings common provision, 12-20-403. Recommend amending as*  
4 *indicated.*}>

5 (6) (a) No later than thirty days following the date of the director's action, ~~an~~  
6 ~~occupational therapist~~ A LICENSEE disciplined under this section shall be notified by the  
7 director, by a certified letter to the most recent address provided to the director by the  
8 ~~occupational therapist~~ LICENSEE, of the action taken, the specific charges giving rise to the  
9 action, and the ~~occupational therapist's~~ LICENSEE'S right to request a hearing on the action  
10 taken.

11 (b) Within thirty days after notification is sent by the director, the ~~occupational~~  
12 ~~therapist~~ LICENSEE may file a written request with the director for a hearing on the action  
13 taken. Upon receipt of the request the director shall grant a hearing to the ~~occupational~~  
14 ~~therapist~~ LICENSEE. If the ~~occupational therapist~~ LICENSEE fails to file a written request for  
15 a hearing within thirty days, the action of the director shall be final on that date.

16 (c) Failure of the ~~occupational therapist~~ LICENSEE to appear at the hearing without  
17 good cause shall be deemed a withdrawal of his or her request for a hearing, and the  
18 director's action shall be final on that date. Failure, without good cause, of the director to  
19 appear at the hearing shall be deemed cause to dismiss the proceeding. <{*Should we update*  
20 *"occupational therapist" to "licensee" in subsection (6), above, to include OTAs?*}>

21 (7) (a) The director may request the attorney general to seek an injunction in any  
22 court of competent jurisdiction, to enjoin a person from committing an act prohibited by this  
23 article. When seeking an injunction under this paragraph (a), the attorney general shall not  
24 be required to allege or prove the inadequacy of any remedy at law or that substantial or  
25 irreparable damage is likely to result from a continued violation of this article ACCORDANCE  
26 WITH SECTION 12-20-406. <{*Redundant with injunctive relief common provision,*  
27 *12-20-406. Recommend amendment as indicated.*}>

28 (b) (†) (8) In accordance with article 4 of title 24, C.R.S., and this article 270, AND  
29 SECTION 12-20-403, the director is authorized to investigate, hold hearings, and gather  
30 evidence in all matters related to the exercise and performance of the powers and duties of  
31 the director. <{*Recommend adding reference to disciplinary procedures common*  
32 *provision, 12-20-403.*}>

33 (H) In order to aid the director in any hearing or investigation instituted pursuant to  
34 this section, the director or an administrative law judge appointed pursuant to paragraph (c)  
35 of this subsection (7) is authorized to administer oaths, take affirmations of witnesses, and  
36 issue subpoenas compelling the attendance of witnesses and the production of all relevant  
37 records, papers, books, documentary evidence, and materials in any hearing, investigation,  
38 accusation, or other matter before the director or an administrative law judge.

39 (III) Upon failure of any witness or licensee to comply with a subpoena or process,

1 the district court of the county in which the subpoenaed person or licensee resides or  
2 conducts business, upon application by the director with notice to the subpoenaed person  
3 or licensee, may issue to the person or licensee an order requiring that person or licensee to  
4 appear before the director; to produce the relevant papers, books, records, documentary  
5 evidence, or materials if so ordered; or to give evidence touching the matter under  
6 investigation or in question. If the person or licensee fails to obey the order of the court, the  
7 court may hold the person or licensee in contempt of court.

8 (c) The director may appoint an administrative law judge pursuant to part 10 of  
9 article 30 of title 24, C.R.S., to conduct hearings, take evidence, make findings, and report  
10 such findings to the director. <{**Redundant with disciplinary procedures common  
11 provision, 12-20-403. Recommend repealing.**}>

12 (8) (a) The director, the director's staff, any person acting as a witness or consultant  
13 to the director, any witness testifying in a proceeding authorized under this article, and any  
14 person who lodges a complaint pursuant to this article shall be immune from liability in any  
15 civil action brought against him or her for acts occurring while acting in his or her capacity  
16 as director, staff, consultant, or witness, respectively, if such individual was acting in good  
17 faith within the scope of his or her respective capacity, made a reasonable effort to obtain  
18 the facts of the matter as to which he or she acted, and acted in the reasonable belief that the  
19 action taken by him or her was warranted by the facts.

20 (b) A person participating in good faith in making a complaint or report or in an  
21 investigative or administrative proceeding pursuant to this section shall be immune from any  
22 civil or criminal liability that otherwise might result by reason of the participation.  
23 <{**Redundant with immunity common provision, 12-20-402. Recommend repeal.**}>

24 (9) A final action of the director is subject to judicial review by the court of appeals  
25 pursuant to section 24-4-106 (11), C.R.S. **12-20-408.** <{**Redundant with judicial review  
26 common provision, 12-20-408. Recommend amending as indicated.**}>

27 (10) An employer of an occupational therapist LICENSEE shall report to the director  
28 any disciplinary action taken against the occupational therapist LICENSEE or the resignation  
29 of the occupational therapist LICENSEE in lieu of disciplinary action for conduct that violates  
30 this article 270. <{**Should we update "occupational therapist" to "licensee" in subsection  
31 (10), above, to include OTAs?**}>

32 (11) When a complaint or an investigation discloses an instance of misconduct that,  
33 in the opinion of the director, warrants formal action, the complaint shall not be resolved by  
34 a deferred settlement, action, judgment, or prosecution. <{**Redundant with no deferment  
35 common provision, 12-20-404 (2). Recommend repealing.**}>

36 (12) (a) If it appears to the director, based upon credible evidence as presented in a  
37 written complaint by any person, that a licensee is acting in a manner that is an imminent  
38 threat to the health and safety of the public, or a person is acting or has acted without the  
39 required license, the director may issue an order to cease and desist the activity. The director

1 shall set forth in the order the statutes and rules alleged to have been violated, the facts  
2 alleged to have constituted the violation, and the requirement that all unlawful acts or  
3 unlicensed practices immediately cease.

4 (b) ~~Within ten days after service of the order to cease and desist pursuant to~~  
5 ~~paragraph (a) of this subsection (12), the respondent may request a hearing on the question~~  
6 ~~of whether acts or practices in violation of this article have occurred. The hearing shall be~~  
7 ~~conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S.~~

8 (13) (a) ~~If it appears to the director, based upon credible evidence as presented in a~~  
9 ~~written complaint by any person, that a person has violated any other provision of this~~  
10 ~~article, in addition to any specific powers granted pursuant to this article, the director may~~  
11 ~~issue to the person an order to show cause as to why the director should not issue a final~~  
12 ~~order directing the person to cease and desist from the unlawful act or unlicensed practice.~~

13 (b) ~~A person against whom an order to show cause has been issued pursuant to~~  
14 ~~paragraph (a) of this subsection (13) shall be notified promptly by the director of the~~  
15 ~~issuance of the order, along with a copy of the order, the factual and legal basis for the order,~~  
16 ~~and the date set by the director for a hearing on the order. The notice may be served on the~~  
17 ~~person against whom the order has been issued by personal service, by first-class, postage~~  
18 ~~prepaid United States mail, or in another manner as may be practicable. Personal service or~~  
19 ~~mailing of an order or document pursuant to this paragraph (b) shall constitute notice of the~~  
20 ~~order to the person.~~

21 (c) (I) ~~The hearing on an order to show cause shall be held no sooner than ten and~~  
22 ~~no later than forty-five calendar days after the date of transmission or service of the~~  
23 ~~notification by the director as provided in paragraph (b) of this subsection (13). The hearing~~  
24 ~~may be continued by agreement of all parties based upon the complexity of the matter,~~  
25 ~~number of parties to the matter, and legal issues presented in the matter, but in no event shall~~  
26 ~~the hearing be held later than sixty calendar days after the date of transmission or service of~~  
27 ~~the notification.~~

28 (H) ~~If a person against whom an order to show cause has been issued pursuant to~~  
29 ~~paragraph (a) of this subsection (13) does not appear at the hearing, the director may present~~  
30 ~~evidence that notification was properly sent or served on the person pursuant to paragraph~~  
31 ~~(b) of this subsection (13) and such other evidence related to the matter as the director deems~~  
32 ~~appropriate. The director shall issue the order within ten days after the director's~~  
33 ~~determination related to reasonable attempts to notify the respondent, and the order shall~~  
34 ~~become final as to that person by operation of law. Such hearing shall be conducted pursuant~~  
35 ~~to sections 24-4-104 and 24-4-105, C.R.S.~~

36 (HH) ~~If the director reasonably finds that the person against whom the order to show~~  
37 ~~cause was issued is acting or has acted without the required license, or has engaged or is~~  
38 ~~about to engage in acts or practices constituting violations of this article, the director may~~  
39 ~~issue a final cease-and-desist order directing the person to cease and desist from further~~

1 unlawful acts or unlicensed practices.

2 (IV) The director shall provide notice, in the manner set forth in paragraph (b) of this  
3 subsection (13), of the final cease-and-desist order within ten calendar days after the hearing  
4 conducted pursuant to this paragraph (c) to each person against whom the final order has  
5 been issued. The final order issued pursuant to subparagraph (III) of this paragraph (c) shall  
6 be effective when issued and shall be a final order for purposes of judicial review.

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

13 (15) If any person fails to comply with a final cease-and-desist order or a stipulation,  
14 the director may request the attorney general or the district attorney for the judicial district  
15 in which the alleged violation exists to bring, and if so requested such attorney shall bring,  
16 suit for a temporary restraining order and for injunctive relief to prevent any further or  
17 continued violation of the final order.

18 (16) A person aggrieved by the final cease-and-desist order may seek judicial review  
19 of the director's determination or of the director's final order as provided in subsection (9)  
20 of this section.

21 (11) **THE DIRECTOR MAY ISSUE CEASE-AND-DESIST ORDERS UNDER THE**  
22 **CIRCUMSTANCES AND IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION**  
23 **12-20-405. <{Subsections (12) - (16) redundant with cease and desist common provision,**  
24 **12-20-405. Recommend repealing and replacing with cross-reference to cease-and-desist**  
25 **orders common provisions. }>**

26 (17)(a) When a complaint or investigation discloses an instance of misconduct that,  
27 in the opinion of the director, does not warrant formal action but should not be dismissed  
28 as being without merit, the director may send a letter of admonition to the licensee

29 (b) When the director sends a letter of admonition to a licensee, the director shall  
30 notify the licensee of the licensee's right to request in writing, within twenty days after  
31 receipt of the letter, that formal disciplinary proceedings be initiated to adjudicate the  
32 propriety of the conduct described in the letter of admonition.

33 (c) If the licensee timely requests adjudication, the director shall vacate the letter of  
34 admonition and process the matter by means of formal disciplinary proceedings.

35 <{**Redundant with letters of admonition common provision, 12-20-404 (4). Recommend**

36 **repealing. }>**  
37 (18) (12) **When a complaint or investigation discloses an instance of conduct that**  
38 **does not warrant formal action by the director and, in the opinion of the director, should be**  
39 **dismissed, but the director has noticed conduct by the licensee that could lead to serious**

1 consequences if not corrected; The director may send a confidential letter of concern to the  
2 licensee UNDER THE CIRCUMSTANCES SPECIFIED IN SECTION 12-20-404 (5). <{*Redundant*  
3 *with confidential letters of concern common provision, 12-20-404 (5). Recommend*  
4 *amending as indicated.*}>

5 (19) ~~Any person whose license is revoked or who surrenders his or her license to~~  
6 ~~avoid discipline under this section is ineligible to apply for a license under this article for at~~  
7 ~~least two years after the date the license is revoked or surrendered.~~ <{*Redundant with no*  
8 *deferral common provision, 12-20-404 (2). Recommend repealing.*}>

9  
10 **12-270-115. [Formerly 12-40.5-111] Unauthorized practice - penalties.** A person  
11 who practices or offers or attempts to practice occupational therapy without an active license  
12 as required by and issued under this article 270 for occupational therapists or occupational  
13 therapy assistants commits a class 2 misdemeanor and shall be punished as provided in  
14 section 18-1.3-501, C.R.S., for the first offense. For the second or any subsequent offense,  
15 the person commits a class 1 misdemeanor and shall be punished as provided in section  
16 18-1.3-501, C.R.S. IS SUBJECT TO PENALTIES PURSUANT TO SECTION 12-20-407 (1)(b).  
17 <{*Redundant with unauthorized practice common provision, 12-20-407. Recommend*  
18 *amending as indicated.*}>

19  
20 **12-270-116. [Formerly 12-40.5-112] Rule-making authority.** The director shall  
21 promulgate rules as necessary for the administration of this article PURSUANT TO SECTION  
22 12-20-204. <{*Updated with a cross references to the rule-making common provision,*  
23 *12-20-204.*}>

24  
25 ~~**12-40.5-113. Severability.** If any provision of this article is held to be invalid, such~~  
26 ~~invalidity shall not affect other provisions of this article that can be given effect without the~~  
27 ~~invalid provision.~~ <{*Redundant with generally applicable severability statute, 2-4-204.*  
28 *Recommend repealing.*}>

29  
30 **12-270-117. [Formerly 12-40.5-114] Mental and physical examination of**  
31 **licensees.** (1) If the director has reasonable cause to believe that a licensee is unable to  
32 practice with reasonable skill and safety IN ACCORDANCE WITH SECTION 12-30-108, the  
33 director may order the A licensee to take a mental or physical examination administered by  
34 a physician or other licensed health care professional designated by the director. Except  
35 where due to circumstances beyond the licensee's control, if the licensee fails or refuses to  
36 undergo a mental or physical examination, the director may suspend the licensee's license  
37 until the director has made a determination of the licensee's fitness to practice. The director  
38 shall proceed with an order for examination and shall make his or her determination in a  
39 timely manner. <{*Recommend adding reference to mental/physical exams common*

1 provision, 12-30-108.>

2 (2) In an order requiring a licensee to undergo a mental or physical examination, the  
3 director shall state the basis of the director's reasonable cause to believe that the licensee is  
4 unable to practice with reasonable skill and safety. For purposes of a disciplinary proceeding  
5 authorized under this article, the licensee is deemed to have waived all objections to the  
6 admissibility of the examining physician's or licensed health care professional's testimony  
7 or examination reports on the grounds that they are privileged communication.  
8 <{***Redundant with mental/physical exams common provision, 12-30-108 (1)(c) and 2nd***  
9 ***sentence in (2). Recommend repealing.***>

10 (3)(2) The licensee may submit to the director testimony or examination reports from  
11 a physician chosen by the licensee and pertaining to any condition that the director has  
12 alleged may preclude the licensee from practicing with reasonable skill and safety. The  
13 director may consider the testimony and reports submitted by the licensee in conjunction  
14 with, but not in lieu of, testimony and examination reports of the physician designated by  
15 the director. <{***Recommend retaining because a similar provision is stricken in the***  
16 ***common provision, 12-30-108 (2), last sentence.***>

17 (4) The results of a mental or physical examination ordered by the director shall not  
18 be used as evidence in any proceeding other than one before the director and shall not be  
19 deemed a public record or made available to the public. <{***Redundant with mental/physical***  
20 ***exams common provision, 12-30-108 (3). Recommend repealing.***>

21  
22 **12-270-118. [Formerly 12-40.5-114.5] Confidential agreement to limit practice**  
23 **- violation - grounds for discipline.** (1) If an occupational therapist or occupational  
24 therapy assistant has a physical illness; a physical condition; or a behavioral or mental health  
25 disorder that renders the person unable to practice occupational therapy with reasonable skill  
26 and safety to clients, the occupational therapist or occupational therapy assistant shall notify  
27 the director of the physical illness; the physical condition; or the behavioral or mental health  
28 disorder in a manner and within a period determined by the director. The director may  
29 require the occupational therapist or occupational therapy assistant to submit to an  
30 examination to evaluate the extent of the physical illness; the physical condition; or the  
31 behavioral or mental health disorder and its impact on the occupational therapist's or  
32 occupational therapy assistant's ability to practice occupational therapy with reasonable skill  
33 and safety to clients.

34 (2) (a) Upon determining that an occupational therapist or occupational therapy  
35 assistant with a physical illness; a physical condition; or a behavioral or mental health  
36 disorder is able to render limited services with reasonable skill and safety to clients, the  
37 director may enter into a confidential agreement with the occupational therapist or  
38 occupational therapy assistant in which the occupational therapist or occupational therapy  
39 assistant agrees to limit his or her practice based on the restrictions imposed by the physical  
40 illness; the physical condition; or the behavioral or mental health disorder, as determined by

1 the director.

2 (b) ~~As part of the agreement, the occupational therapist or occupational therapy~~  
3 ~~assistant is subject to periodic reevaluation or monitoring as determined appropriate by the~~  
4 ~~director.~~

5 (c) ~~The parties may modify or dissolve the agreement as necessary based on the~~  
6 ~~results of a reevaluation or of monitoring.~~

7 (3) ~~By entering into an agreement with the director pursuant to this section to limit~~  
8 ~~his or her practice, an occupational therapist or occupational therapy assistant is not~~  
9 ~~engaging in activities that are grounds for discipline pursuant to section 12-40.5-110. The~~  
10 ~~agreement does not constitute a restriction or discipline by the director. However, if the~~  
11 ~~occupational therapist or occupational therapy assistant fails to comply with the terms of the~~  
12 ~~agreement, the failure constitutes a prohibited activity pursuant to section 12-40.5-110~~  
13 ~~(2)(d), and the occupational therapist or occupational therapy assistant is subject to~~  
14 ~~discipline in accordance with section 12-40.5-110.~~

15 (4) ~~This section does not apply to an occupational therapist or occupational therapy~~  
16 ~~assistant subject to discipline for prohibited activities as described in section 12-40.5-110~~  
17 ~~(2)(c).~~

18 SECTION 12-30-107 CONCERNING CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE  
19 APPLIES TO THIS ARTICLE 270.

20 <{*Redundant with confidential agreement common provision, 12-30-107. Recommend*  
21 *repealing and adding reference to common provision.*}>

22  
23 **12-270-119. [Formerly 12-40.5-114.7] Professional liability insurance required**  
24 **- rules.** (1) A person shall not practice occupational therapy unless the person purchases and  
25 maintains, or is covered by, professional liability insurance in an amount determined by the  
26 director by rule that covers all acts within the scope of practice of the occupational therapist  
27 or occupational therapy assistant.

28 (2) This section does not apply to an occupational therapist or occupational therapy  
29 assistant who is a public employee acting within the course and scope of the public  
30 employee's duties and who is granted immunity under the "Colorado Governmental  
31 Immunity Act", article 10 of title 24. ~~C.R.S.~~

32  
33 **12-270-120. [Formerly 12-40.5-115] Repeal of article - review of functions.** This  
34 article **270** is repealed, effective September 1, 2020. ~~Prior to the~~ BEFORE ITS repeal, the  
35 ~~department of regulatory agencies shall review the director's powers, duties, and functions~~  
36 ~~under this article as provided in section 270~~ ARE SCHEDULED FOR REVIEW IN ACCORDANCE  
37 WITH 24-34-104. ~~C.R.S.~~