

## CHAPTER 274

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**PROFESSIONS AND OCCUPATIONS**


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**HOUSE BILL 20-1230**

BY REPRESENTATIVE(S) Singer and Larson, Caraveo, Cutter, Gonzales-Gutierrez, Holtorf, Jaquez Lewis, Landgraf, Liston, Michaelson Jenet, Mullica, Pelton, Young, Buentello, Duran, Esgar, Lontine, Sandridge, Valdez D., Bird; also SENATOR(S) Fields, Ginal, Tate, Todd.

**AN ACT**

**CONCERNING THE CONTINUATION OF THE "OCCUPATIONAL THERAPY PRACTICE ACT", AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2019 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **amend** 12-270-120 as follows:

**12-270-120. Repeal of article - review of functions.** This article 270 is repealed, effective September 1, ~~2020~~ 2030. Before the repeal, the director's powers, duties, and functions under this article 270 are scheduled for review in accordance with section 24-34-104.

**SECTION 2.** In Colorado Revised Statutes, 24-34-104, **repeal** (19)(a)(VII); and **add** (31)(a)(V) as follows:

**24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal.**

(19) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2020:

~~(VII) The licensing of occupational therapists and occupational therapy assistants in accordance with article 270 of title 12;~~

(31) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2030:

(V) THE LICENSING OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

ASSISTANTS IN ACCORDANCE WITH ARTICLE 270 OF TITLE 12.

**SECTION 3.** In Colorado Revised Statutes, 12-270-102, **add** (1)(b.3), (1)(b.5), and (1)(b.7) as follows:

**12-270-102. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that:

(b.3) OCCUPATIONAL THERAPY PRACTICE CONSISTS OF CLIENT MANAGEMENT, WHICH INCLUDES OCCUPATIONAL THERAPY DIAGNOSIS AND PROGNOSIS TO OPTIMIZE OCCUPATIONAL PERFORMANCE;

(b.5) OCCUPATIONAL THERAPY INCLUDES CONTRIBUTIONS TO PUBLIC HEALTH SERVICES THAT ARE INTENDED TO IMPROVE THE HEALTH OF THE PUBLIC;

(b.7) THE PROFESSIONAL SCOPE OF OCCUPATIONAL THERAPY PRACTICE EVOLVES IN RESPONSE TO INNOVATION, RESEARCH, COLLABORATION, AND CHANGE IN SOCIETAL NEEDS; AND

**SECTION 4.** In Colorado Revised Statutes, 12-270-104, **amend** (3), (4), and (6); and **add** (2.2), (2.4), (2.6), (4.8), (8.3), and (8.5) as follows:

**12-270-104. Definitions.** As used in this article 270, unless the context otherwise requires:

(2.2) "BEHAVIORAL HEALTH CARE SERVICES" MEANS SERVICES TO FACILITATE THE PREVENTION, DIAGNOSIS, AND TREATMENT OF, AND FOR THE RECOVERY FROM, MENTAL HEALTH AND SUBSTANCE USE DISORDERS WITHIN THE SCOPE OF PRACTICE OF OCCUPATIONAL THERAPY.

(2.4) "CLIENT" MEANS AN INDIVIDUAL, GROUP, POPULATION, COMMUNITY, OR ORGANIZATION THAT RECEIVES OCCUPATIONAL THERAPY SERVICES.

(2.6) "FUNCTIONAL COGNITION" MEANS THE WAY IN WHICH AN INDIVIDUAL UTILIZES AND INTEGRATES THE INDIVIDUAL'S THINKING AND PROCESSING SKILLS TO ACCOMPLISH EVERYDAY ACTIVITIES IN CLINICAL AND COMMUNITY LIVING ENVIRONMENTS.

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

(4) "Low vision rehabilitation services" means the evaluation, diagnosis, management, and care of the low vision patient in visual acuity, ~~and~~ visual field, AND OCULOMOTOR PERFORMANCE as it affects the patient's occupational performance, including low vision rehabilitation therapy, education, and

interdisciplinary consultation.

(4.8) "OCCUPATION" MEANS AN EVERYDAY, PERSONALIZED ACTIVITY IN WHICH PEOPLE PARTICIPATE AS INDIVIDUALS, FAMILIES, AND COMMUNITIES TO OCCUPY TIME AND BRING MEANING AND PURPOSE TO LIFE. "OCCUPATION" INCLUDES AN ACTIVITY THAT A PERSON NEEDS TO DO, WANTS TO DO, OR IS EXPECTED TO DO.

(6) "Occupational therapy" means the therapeutic use of OCCUPATIONS, INCLUDING everyday life activities with individuals, or groups, for the purpose of POPULATIONS, OR ORGANIZATIONS, TO SUPPORT participation, PERFORMANCE, AND FUNCTION in roles and situations in home, school, workplace, community, and other settings. OCCUPATIONAL THERAPY IS PROVIDED FOR HABILITATION, REHABILITATION, AND THE PROMOTION OF HEALTH AND WELLNESS TO PERSONS WHO HAVE, OR ARE AT RISK FOR DEVELOPING, AN ILLNESS, INJURY, DISEASE, DISORDER, CONDITION, IMPAIRMENT, DISABILITY, ACTIVITY LIMITATION, OR PARTICIPATION RESTRICTION. OCCUPATIONAL THERAPY USES EVERYDAY LIFE ACTIVITIES TO PROMOTE MENTAL HEALTH AND SUPPORT FUNCTIONING IN PEOPLE WHO HAVE, OR WHO ARE AT RISK OF EXPERIENCING, A RANGE OF MENTAL HEALTH DISORDERS, INCLUDING PSYCHIATRIC, BEHAVIORAL, EMOTIONAL, AND SUBSTANCE USE DISORDERS. OCCUPATIONAL THERAPY ADDRESSES THE PHYSICAL, COGNITIVE, PSYCHOSOCIAL, SENSORY-PERCEPTUAL, AND OTHER ASPECTS OF PERFORMANCE IN A VARIETY OF CONTEXTS AND ENVIRONMENTS TO SUPPORT ENGAGEMENT IN OCCUPATIONS THAT AFFECT PHYSICAL HEALTH, MENTAL HEALTH, WELL-BEING, AND QUALITY OF LIFE. The practice of occupational therapy includes:

(a) ~~Methods or strategies selected to direct the process of interventions such as~~ EVALUATION OF FACTORS AFFECTING ACTIVITIES OF DAILY LIVING, INSTRUMENTAL ACTIVITIES OF DAILY LIVING, REST AND SLEEP, EDUCATION, WORK, PLAY, LEISURE, SOCIAL PARTICIPATION, AND HEALTH MANAGEMENT, INCLUDING:

(I) ~~Establishment, remediation, or restoration of a skill or ability that has not yet developed or is impaired~~ CLIENT FACTORS, INCLUDING BODY FUNCTIONS SUCH AS NEUROMUSCULOSKELETAL, SENSORY, VISUAL, PERCEPTUAL, MENTAL, COGNITIVE, AND PAIN FACTORS; BODY STRUCTURES SUCH AS CARDIOVASCULAR, DIGESTIVE, NERVOUS, INTEGUMENTARY, AND GENITOURINARY SYSTEMS; STRUCTURES RELATED TO MOVEMENT; AND A CLIENT'S VALUES, BELIEFS, AND SPIRITUALITY;

(II) ~~Compensation, modification, or adaptation of an activity or environment to enhance performance~~ HABITS, ROUTINES, ROLES, RITUALS, AND BEHAVIOR PATTERNS;

(III) ~~Maintenance and enhancement of capabilities without which performance of everyday life activities would decline~~ PHYSICAL AND SOCIAL ENVIRONMENTS; CULTURAL, PERSONAL, TEMPORAL, AND VIRTUAL CONTEXTS; AND ACTIVITY DEMANDS THAT AFFECT PERFORMANCE; AND

(IV) ~~Promotion of health and wellness to enable or enhance performance in everyday life activities; and~~ PERFORMANCE SKILLS, INCLUDING MOTOR, PRAXIS, PROCESS, SENSORY, PERCEPTUAL, EMOTIONAL REGULATION, AND COMMUNICATION; SOCIAL INTERACTION SKILLS; AND FUNCTIONAL COGNITION;

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

(b) ~~Evaluation of factors affecting activities of daily living, instrumental activities of daily living, education, work, play, leisure, and social participation, including~~ METHODS OR APPROACHES SELECTED TO DIRECT THE PROCESS OF INTERVENTIONS SUCH AS:

(I) ~~Client factors, including body functions such as neuromuscular, sensory, visual, perceptual, and cognitive functions, and body structures such as cardiovascular, digestive, integumentary, and genitourinary systems~~ ESTABLISHMENT, REMEDIATION, OR RESTORATION OF A SKILL OR ABILITY THAT HAS NOT YET DEVELOPED, IS IMPAIRED, OR IS IN DECLINE;

(II) ~~Habits, routines, roles, and behavior patterns~~ COMPENSATION, MODIFICATION, OR ADAPTATION OF AN ACTIVITY OR ENVIRONMENT TO ENHANCE PERFORMANCE OR TO PREVENT INJURIES, DISORDERS, OR OTHER CONDITIONS;

(III) ~~Cultural, physical, environmental, social, and spiritual contexts and activity demands that affect performance; and~~ MAINTENANCE AND ENHANCEMENT OF CAPABILITIES WITHOUT WHICH PERFORMANCE IN EVERYDAY LIFE ACTIVITIES WOULD DECLINE;

(IV) ~~Performance skills, including motor, process, and communication and interaction skills~~ PROMOTION OF HEALTH AND WELLNESS, INCLUDING THE USE OF SELF-MANAGEMENT STRATEGIES, TO ENABLE OR ENHANCE PERFORMANCE IN EVERYDAY LIFE ACTIVITIES; AND

(V) PREVENTION OF BARRIERS TO PERFORMANCE AND PARTICIPATION, INCLUDING INJURY AND DISABILITY PREVENTION;

(c) Interventions and procedures to promote or enhance safety and performance in activities of daily living, instrumental activities of daily living, REST AND SLEEP, education, work, play, leisure, ~~and~~ social participation, AND HEALTH MANAGEMENT, including:

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

(II) Training in self-care; self-management; SELF-REGULATION; HEALTH MANAGEMENT AND MAINTENANCE; home management; ~~and~~ community, VOLUNTEER, ~~and~~ work INTEGRATION AND ~~reintegration~~; SCHOOL ACTIVITIES; AND WORK PERFORMANCE;

(III) Identification, development, remediation, or compensation of physical, cognitive, ~~neuromuscular~~ NEUROMUSCULOSKELETAL, sensory, VISUAL, PERCEPTUAL, AND MENTAL functions; sensory processing; FUNCTIONAL COGNITION; PAIN TOLERANCE AND MANAGEMENT; DEVELOPMENTAL SKILLS; ~~and~~ behavioral skills;

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

(V) Education and training of individuals, including family members, caregivers,

## GROUPS, POPULATIONS, and others;

(VI) Care coordination, case management, and transition services;  
DIRECT, INDIRECT, AND CONSULTATIVE CARE; ADVOCACY AND SELF-ADVOCACY;  
AND OTHER SERVICE DELIVERY METHODS;

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

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

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

(X) Assessment, recommendation, and training in techniques to enhance functional mobility, including ~~wheelchair management~~ COMPLEX SEATING AND MANAGEMENT OF WHEELCHAIRS AND OTHER MOBILITY DEVICES;

(XI) Driver rehabilitation and community mobility;

(XII) Management of feeding, eating, and swallowing to ~~enable~~ SUPPORT eating and feeding performance NECESSARY FOR NUTRITION, SOCIAL PARTICIPATION, OR OTHER HEALTH OR WELLNESS CONSIDERATIONS;

(XIII) Application of physical agent modalities and therapeutic procedures such as wound management; techniques to enhance, MAINTAIN, OR PREVENT THE DECLINE OF sensory, perceptual, ~~and~~ PSYCHOSOCIAL, OR cognitive processing; MANAGEMENT OF PAIN; and manual techniques to enhance, MAINTAIN, OR PREVENT THE DECLINE OF performance skills; ~~and~~

(XIV) The use of telehealth, TELEREHABILITATION, AND TELETHERAPY pursuant to rules as may be adopted by the director;

(XV) LOW VISION REHABILITATION SERVICES AND VISION THERAPY SERVICES UNDER THE REFERRAL, PRESCRIPTION, SUPERVISION, OR COMANAGEMENT OF AN OPHTHALMOLOGIST OR OPTOMETRIST;

(XVI) FACILITATION OF THE OCCUPATIONAL PERFORMANCE OF GROUPS, POPULATIONS, OR ORGANIZATIONS THROUGH THE MODIFICATION OF ENVIRONMENTS AND THE ADAPTATION OF PROCESSES;

(XVII) SENSORY-BASED INTERVENTIONS INCLUDING EQUIPMENT, ENVIRONMENT, AND ROUTINE ADAPTATIONS THAT SUPPORT OPTIMAL SENSORY INTEGRATION AND PROCESSING; AND

(XVIII) BEHAVIORAL HEALTH CARE SERVICES TO ENHANCE, MAINTAIN, OR PREVENT THE DECLINE OF OCCUPATIONAL PERFORMANCE WITHIN THE SCOPE OF PRACTICE OF OCCUPATIONAL THERAPY.

(8.3) "TELEHEALTH" MEANS THE USE OF ELECTRONIC INFORMATION AND TELECOMMUNICATIONS TECHNOLOGY TO SUPPORT AND PROMOTE ACCESS TO CLINICAL HEALTH CARE, CLIENT AND PROFESSIONAL HEALTH-RELATED EDUCATION, PUBLIC HEALTH, AND HEALTH ADMINISTRATION.

(8.5) "TELEREHABILITATION" OR "TELE THERAPY" MEANS THE DELIVERY OF REHABILITATION AND HABILITATION SERVICES VIA INFORMATION AND COMMUNICATION TECHNOLOGIES, COMMONLY REFERRED TO AS "TELEHEALTH" TECHNOLOGIES.

**SECTION 5.** In Colorado Revised Statutes, **amend** 12-270-105 as follows:

**12-270-105. Use of titles restricted.** (1) Only a person licensed as an occupational therapist IN THIS STATE OR WHO IS A LEGALLY QUALIFIED OCCUPATIONAL THERAPIST FROM ANOTHER STATE OR COUNTRY PROVIDING SERVICES ON BEHALF OF A TEMPORARILY ABSENT OCCUPATIONAL THERAPIST LICENSED IN THIS STATE, IN ACCORDANCE WITH SECTION 12-270-110 (1)(d), may use the title "occupational therapist licensed", "licensed occupational therapist", "occupational therapist", ~~or~~ "doctor of occupational therapy", or "OCCUPATIONAL THERAPY CONSULTANT"; use the abbreviation "O.T.", "M.O.T.", "O.T.D.", "O.T.R.", "O.T./L.", "O.T.D./L.", "M.O.T./L.", or "O.T.R./L."; or USE any other generally accepted terms, letters, or figures that indicate that the person is an occupational therapist.

(2) Only a person licensed as an occupational therapy assistant IN THIS STATE may use the title "OCCUPATIONAL THERAPY ASSISTANT", "occupational therapy assistant licensed", or "licensed occupational therapy assistant"; use the abbreviation "~~O.T.A./L.~~" or "~~C.O.T.A./L.~~" ABBREVIATION "O.T.A.", "O.T.A./L.", "C.O.T.A.", OR "C.O.T.A./L."; or use any other generally accepted terms, letters, or figures indicating that the person is an occupational therapy assistant.

**SECTION 6.** In Colorado Revised Statutes, 12-270-106, **amend** (1)(a) and (2) as follows:

**12-270-106. License required - occupational therapists - occupational therapy assistants.** (1) (a) On and after June 1, 2014, except as otherwise provided in this article 270, a person shall not practice occupational therapy or represent ~~himself or herself as being able to~~ THAT THE PERSON MAY practice occupational therapy in this state without possessing a valid license issued by the director in accordance with this article 270 and rules adopted pursuant to this article 270.

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

**SECTION 7.** In Colorado Revised Statutes, 12-270-107, **amend** (2) and (3) as follows:

**12-270-107. Licensure of occupational therapists - application - qualifications - rules. (2) [Similar to former subsection (3)] ~~Application:~~**

~~(a) When an applicant has fulfilled the requirements of subsection (1) of this section, the applicant may apply for examination and licensure upon payment of a fee in an amount determined by the director. A person who fails an examination may apply for reexamination upon payment of a fee in an amount determined by the director.~~ **Examination.** EACH APPLICANT MUST PASS A NATIONALLY RECOGNIZED EXAMINATION, APPROVED BY THE DIRECTOR, THAT MEASURES THE MINIMUM LEVEL OF COMPETENCE NECESSARY FOR PUBLIC HEALTH, SAFETY, AND WELFARE.

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

~~(3) [Similar to former subsection (2)] **Examination.** Each applicant shall pass a nationally recognized examination approved by the director that measures the minimum level of competence necessary for public health, safety, and welfare.~~ **Application.** AFTER AN APPLICANT HAS FULFILLED THE REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION, THE APPLICANT MAY APPLY FOR LICENSURE UPON PAYMENT OF A FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR. THE DIRECTOR SHALL DESIGNATE THE FORM AND MANNER OF THE APPLICATION.

**SECTION 8.** In Colorado Revised Statutes, 12-270-108, **amend** (2) and (3) as follows:

**12-270-108. Occupational therapy assistants - licensure - application - qualifications - rules. (2) [Similar to former subsection (3)] ~~Application:~~**

~~(a) When an applicant has fulfilled the requirements of subsection (1) of this section, the applicant may apply for licensure upon payment of a fee in an amount determined by the director.~~ **Examination.** EACH APPLICANT MUST PASS A NATIONALLY RECOGNIZED EXAMINATION, APPROVED BY THE DIRECTOR, THAT MEASURES THE MINIMUM LEVEL OF COMPETENCE NECESSARY FOR PUBLIC HEALTH, SAFETY, AND WELFARE.

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

~~(3) [Similar to former subsection (2)] **Examination.** Each applicant must pass a nationally recognized examination, approved by the director, that measures the minimum level of competence necessary for public health, safety, and welfare.~~ **Application.** AFTER AN APPLICANT HAS FULFILLED THE REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION, THE APPLICANT MAY APPLY FOR LICENSURE UPON PAYMENT OF A FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR. THE DIRECTOR SHALL DESIGNATE THE FORM AND MANNER OF THE APPLICATION.

**SECTION 9.** In Colorado Revised Statutes, 12-270-110, **amend** (1)(a), (1)(b), and (1)(c); and **add** (1)(c.5) as follows:

**12-270-110. Scope of article - exclusions. (1)** This article 270 does not prevent or restrict the practice, services, or activities of:

(a) A person licensed or otherwise regulated in this state by any other law from engaging in ~~his or her~~ THE PERSON'S profession or occupation as defined in the part

or article under which ~~he or she~~ THE PERSON is licensed;

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

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

(c.5) A PERSON FULFILLING AN OCCUPATIONAL THERAPY DOCTORAL CAPSTONE EXPERIENCE IF THE PERSON ACTS UNDER APPROPRIATE SUPERVISION; OR

**SECTION 10.** In Colorado Revised Statutes, **amend** 12-270-111 as follows:

**12-270-111. Limitations on authority.** (1) Nothing in this article 270 shall be construed to authorize an occupational therapist to engage in the practice of medicine, as defined in section 12-240-107; ~~physical therapy, as defined in article 285 of this title 12; vision therapy services or low vision rehabilitation services, except under the referral, prescription, supervision, or comanagement of an ophthalmologist or optometrist;~~ OPTOMETRY, AS DESCRIBED IN ARTICLE 275 OF THIS TITLE 12; or any other form of healing except as authorized by this article 270.

(2) NOTHING IN THIS SECTION PREVENTS AN OCCUPATIONAL THERAPIST FROM MAKING AN OCCUPATIONAL THERAPY DIAGNOSIS WITHIN THE OCCUPATIONAL THERAPIST'S SCOPE OF PRACTICE.

**SECTION 11.** In Colorado Revised Statutes, 12-270-113, **amend** (1) introductory portion, (1)(a), and (1)(b) as follows:

**12-270-113. Protection of medical records - licensee's obligations - verification of compliance - noncompliance grounds for discipline - rules.** (1) Each occupational therapist and occupational therapy assistant responsible for ~~patient~~ CLIENT records shall develop a written plan to ensure the security of ~~patient~~ CLIENT medical records. The plan must address at least the following:

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

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

**SECTION 12.** In Colorado Revised Statutes, 12-270-114, **amend** (1), (2)(c), (2)(d)(II), (2)(l), and (5); **repeal** (6); and **add** (2)(n), (2)(o), and (2)(p) as follows:

**12-270-114. Grounds for discipline - disciplinary proceedings - definitions - judicial review.** (1) The director may take disciplinary action against a licensee if the director finds that the licensee has represented ~~himself or herself as~~ THAT THE

LICENSEE IS a licensed occupational therapist or occupational therapy assistant after the expiration, suspension, or revocation of ~~his or her~~ THE LICENSEE'S license.

(2) The director may take disciplinary or other action as authorized in section 12-20-404 against, or issue a cease-and-desist order under the circumstances and in accordance with the procedures specified in section 12-20-405 to, a licensee in accordance with this section, upon proof that the licensee:

(c) Is an excessive or habitual user or abuser of alcohol or habit-forming drugs or is a habitual user of a controlled substance, as defined in section 18-18-102 (5), or other drugs having similar effects; except that the director has the discretion not to discipline the licensee if ~~he or she~~ THE LICENSEE is participating in good faith in a program to end the use or abuse that the director has approved;

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

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

(n) HAS FAILED TO MAKE ESSENTIAL ENTRIES ON CLIENT RECORDS OR FALSIFIED OR MADE INCORRECT ENTRIES OF AN ESSENTIAL NATURE ON CLIENT RECORDS;

(o) HAS COMMITTED ABUSE OF HEALTH INSURANCE AS SET FORTH IN SECTION 18-13-119 (3); OR

(p) HAS COMMITTED A FRAUDULENT INSURANCE ACT, AS DESCRIBED IN SECTION 10-1-128.

(5) (a) THE DIRECTOR SHALL CONDUCT disciplinary proceedings ~~shall be conducted~~ in accordance with section 12-20-403 and article 4 of title 24. The director ~~has the authority to~~ MAY exercise all powers and duties conferred by this article 270 during the disciplinary proceedings.

(b) [Similar to former subsection (6)(a)] NO LATER THAN THIRTY DAYS AFTER THE DATE OF THE DIRECTOR'S ACTION, THE DIRECTOR SHALL NOTIFY A LICENSEE DISCIPLINED UNDER THIS SECTION OF THE ACTION TAKEN, THE SPECIFIC CHARGES GIVING RISE TO THE ACTION, AND THE LICENSEE'S RIGHT TO REQUEST A HEARING ON THE ACTION TAKEN. THE DIRECTOR SHALL PROVIDE THE NOTICE BY SENDING A CERTIFIED LETTER TO THE MOST RECENT ADDRESS PROVIDED TO THE DIRECTOR BY THE LICENSEE.

(c) [Similar to former subsection (6)(b)] WITHIN THIRTY DAYS AFTER THE DIRECTOR SENDS THE NOTICE DESCRIBED IN SUBSECTION (5)(b) OF THIS SECTION, THE LICENSEE MAY FILE A WRITTEN REQUEST WITH THE DIRECTOR FOR A HEARING ON THE ACTION TAKEN. UPON RECEIPT OF THE REQUEST, THE DIRECTOR SHALL GRANT A HEARING TO THE LICENSEE. IF THE LICENSEE FAILS TO FILE A WRITTEN REQUEST FOR

A HEARING WITHIN THIRTY DAYS, THE ACTION OF THE DIRECTOR BECOMES FINAL ON THAT DATE.

(d) **[Similar to former subsection (6)(c)]** A LICENSEE'S FAILURE TO APPEAR AT A HEARING WITHOUT GOOD CAUSE IS DEEMED A WITHDRAWAL OF THE LICENSEE'S REQUEST FOR A HEARING, AND THE DIRECTOR'S ACTION BECOMES FINAL ON THAT DATE. THE DIRECTOR'S FAILURE TO APPEAR AT A HEARING WITHOUT GOOD CAUSE IS DEEMED CAUSE TO DISMISS THE PROCEEDING.

~~(6) (a) No later than thirty days following the date of the director's action, a licensee disciplined under this section shall be notified by the director, by a certified letter to the most recent address provided to the director by the licensee, of the action taken, the specific charges giving rise to the action, and the licensee's right to request a hearing on the action taken.~~

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

~~(c) Failure of the licensee to appear at the hearing without good cause shall be deemed a withdrawal of his or her request for a hearing, and the director's action shall be final on that date. Failure, without good cause, of the director to appear at the hearing shall be deemed cause to dismiss the proceeding.~~

**SECTION 13.** In Colorado Revised Statutes, 12-270-117, **amend** (1) as follows:

**12-270-117. Mental and physical examination of licensees.** (1) If the director has reasonable cause to believe that a licensee is unable to practice with reasonable skill and safety, the director may order the licensee to take a mental or physical examination administered by a physician or other licensed health care professional designated by the director. Except where due to circumstances beyond the licensee's control, if the licensee fails or refuses to undergo a mental or physical examination, the director may suspend the licensee's license until the director has made a determination of the licensee's fitness to practice. The director shall proceed with an order for examination and shall make ~~his or her~~ A determination in a timely manner.

**SECTION 14.** In Colorado Revised Statutes, 10-1-128, **amend** (1) as follows:

**10-1-128. Fraudulent insurance acts - immunity for furnishing information relating to suspected insurance fraud - legislative declaration.** (1) For purposes of this title 10, articles 40 to 47 of title 8, articles 200, 215, 220, 240, 245, 255, **270**, 275, 285, 290, and 300 of title 12, and article 20 of title 44, a fraudulent insurance act is committed if a person knowingly and with intent to defraud presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, a purported insurer, or any producer thereof any written statement as part or in support of an application for the issuance or the rating of an insurance policy or a claim for payment or other benefit pursuant to an insurance policy that the person knows to contain false information concerning any fact material thereto

or if the person knowingly and with intent to defraud or mislead conceals information concerning any fact material thereto. For purposes of this section, "written statement" includes a ~~patient~~ CLIENT medical record as such term is defined in section 18-4-412 (2)(a) and any bill for medical services.

**SECTION 15.** In Colorado Revised Statutes, 12-270-112, **amend** (1)(b) introductory portion and (1)(b)(III) as follows:

**12-270-112. Continuing professional competency - definition.** (1) (b) The director shall establish a continuing professional competency program that includes: ~~at a minimum, the following elements:~~

(III) Periodic demonstration of knowledge and skills through documentation of activities necessary to ensure at least minimal ability to safely practice the profession; except that an occupational therapist or occupational therapy assistant licensed pursuant to this article 270 need not retake the examination required by section 12-270-107 ~~(3)~~ (2) or 12-270-108 ~~(3)~~ (2), respectively, for initial licensure.

**SECTION 16. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: July 11, 2020