

1 A bill to be entitled

2 An act relating to occupational therapy; amending s.
3 468.203, F.S.; revising and providing definitions;
4 amending s. 468.209, F.S.; revising the fieldwork
5 experience requirement for certain persons to take the
6 examination for licensure as an occupational
7 therapist; amending s. 468.215, F.S.; authorizing
8 licensed occupational therapists to use a specified
9 title and initials in accordance with the rules of a
10 national certifying organization; amending s. 468.223,
11 F.S.; prohibiting certain persons from using a
12 specified title and initials; providing criminal
13 penalties; amending s. 468.225, F.S.; providing
14 construction; reenacting ss. 1002.385(5)(c) and
15 1002.66(2)(c), F.S., relating to the Gardiner
16 Scholarship and specialized instructional services for
17 children with disabilities, respectively, to
18 incorporate the amendments made by the act; providing
19 an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Subsection (4) of section 468.203, Florida
24 Statutes, is amended to read:

25 468.203 Definitions.—As used in this act, the term:

26 (4) "Occupational therapy" means the therapeutic use of
 27 occupations with individuals, groups, or populations, along with
 28 their families or organizations to support participation,
 29 performance, and function in roles and situations in the home,
 30 school, workplace, community, and other settings. Occupational
 31 therapy services are provided for habilitation, rehabilitation,
 32 and the promotion of health and wellness for clients with
 33 disability and nondisability-related needs. These services
 34 include acquisition and preservation of occupational identity
 35 for clients who have or are at risk for developing an illness,
 36 injury, disease, disorder, condition, impairment, disability,
 37 activity limitation, or participation restriction. Through
 38 engagement in everyday activities, occupational therapy supports
 39 occupational performance in persons with, or at risk of
 40 experiencing, a range of developmental, physical, cognitive,
 41 behavioral, mental health, and other disorders and disabilities
 42 ~~purposeful activity or interventions to achieve functional~~
 43 ~~outcomes.~~

44 (a) For the purposes of this subsection:

45 1. "Activities of daily living" means functions and tasks
 46 for self-care which are performed on a daily or routine basis,
 47 including functional mobility, bathing, dressing, eating and
 48 swallowing, personal hygiene and grooming, toileting, and other
 49 similar tasks. ~~"Achieving functional outcomes" means to maximize~~
 50 ~~the independence and the maintenance of health of any individual~~

51 ~~who is limited by a physical injury or illness, a cognitive~~
52 ~~impairment, a psychosocial dysfunction, a mental illness, a~~
53 ~~developmental or a learning disability, or an adverse~~
54 ~~environmental condition.~~

55 2. "Assessment" means the use of skilled observation or
56 the administration and interpretation of standardized or
57 nonstandardized tests and measurements to identify areas for
58 occupational therapy services.

59 3. "Behavioral health services" means the promotion of
60 occupational performance and participation through services to
61 support and facilitate the prevention and treatment of, and for
62 the management and recovery from, mental health and substance
63 abuse disorders, within the scope of occupational therapy
64 practice. These include services to support positive mental
65 health, prevention of mental health disorders, and direct
66 individual and group interventions for the purpose of improving
67 occupational participation and performance.

68 4. "Health management" means activities related to
69 developing, managing, and maintaining health and wellness,
70 including self-management, with the goal of improving or
71 maintaining health to support participation in occupations.

72 5. "Instrumental activities of daily living" means daily
73 or routine activities a person must perform to live
74 independently within the home and community.

75 6. "Mental health services" means the promotion of

76 occupational performance and participation related to mental
77 health, coping, resilience, and well-being. These services
78 include the treatment of mental health and substance abuse
79 disorders, by providing individual, group, and population level
80 supports and services to those who are at risk, experiencing, or
81 in recovery from these conditions, along with their families and
82 communities, within the scope of occupational therapy practice.

83 7. "Occupations" means meaningful and purposeful everyday
84 activities performed and engaged in by individuals, groups,
85 populations, families, or communities which occur in contexts
86 and over time, being broadly categorized as activities of daily
87 living, instrumental activities of daily living, health
88 management, rest and sleep, education, work, play, leisure, and
89 social participation. The term includes more specific
90 occupations and execution of multiple activities that are
91 influenced by performance patterns, performance skills, and
92 client factors, resulting in varied outcomes.

93 8. "Occupational performance" means the ability to
94 perceive, desire, recall, plan, and carry out roles, routines,
95 tasks, and subtasks for the purpose of self-maintenance, self-
96 preservation, productivity, leisure, and rest, for oneself or
97 others, in response to internal or external demands of
98 occupations and contexts.

99 (b) The practice of occupational therapy includes services
100 include, but is are not limited to:

101 1. Evaluation of factors that affect activities of daily
102 living, instrumental activities of daily living, health
103 management, rest and sleep, education, work, play, leisure, and
104 social participation including context, performance patterns,
105 performance skills, and client factors ~~The assessment,~~
106 ~~treatment, and education of or consultation with the individual,~~
107 ~~family, or other persons.~~

108 2. Methods or approaches selected to direct the process of
109 interventions including, but not limited to:

110 a. Establishment, remediation, or restoration of a skill
111 or ability that has not yet developed, is impaired, or is in
112 decline.

113 b. Compensation, modification, or adaptation of activity
114 contexts to improve or enhance performance.

115 c. Maintenance of capabilities without which performance
116 in everyday life occupations would decline.

117 d. Health promotion and wellness, including the use of
118 self-management strategies, to enable or enhance performance in
119 everyday life activities and quality of life.

120 e. Prevention of the occurrence or emergence of barriers
121 to performance and participation, including injury and
122 disability prevention, and occupational deprivation

123 ~~Interventions directed toward developing daily living skills,~~
124 ~~work readiness or work performance, play skills or leisure~~
125 ~~capacities, or enhancing educational performance skills.~~

- 126 3. Interventions and procedures to promote or enhance
127 safety and performance in activities of daily living,
128 instrumental activities of daily living, health management, rest
129 and sleep, education, work, play, leisure, and social
130 participation, including, but not limited to:
- 131 a. Therapeutic use of occupations, exercises, and
132 activities.
- 133 b. Training in self-care, self-management, health
134 management and maintenance, home management, community or work
135 reintegration, and school activities and work performance.
- 136 c. Identification, development, remediation, or
137 compensation of neuromusculoskeletal, sensory-perceptual,
138 emotional regulation, visual, mental, and cognitive functions,
139 pain tolerance and management, mental and behavioral health,
140 praxis, developmental skills, and behavioral skills.
- 141 d. Education and training of individuals, including family
142 members, caregivers, groups, and other populations.
- 143 e. Care coordination, case management, transition
144 services, and consultative services to individuals, groups, or
145 populations, along with their families and communities or
146 organizations.
- 147 f. Group interventions facilitating learning, skills
148 acquisition, and occupational performance of groups,
149 populations, or organizations across the life course.
- 150 g. Mental health services and behavioral health services

151 for the promotion of occupational performance and participation.

152 h. Facilitating occupational performance of individuals,
153 groups, or populations through modification of contexts and
154 adaptation of processes, including the application of ergonomic
155 principles.

156 i. Assessment, design, fabrication, application, fitting,
157 and training in seating and positioning of assistive technology,
158 adaptive devices, orthotic devices, custom orthoses, and
159 training in the use of prosthetic devices.

160 j. Assessment, recommendation, and training in techniques
161 to enhance functional mobility, including management of
162 wheelchairs and other mobility devices.

163 k. Remediation and compensation of visual deficits
164 including low rehabilitation.

165 l. Driving skills rehabilitation and community mobility.

166 m. Management of feeding, eating, and swallowing to enable
167 eating and feeding performance.

168 n. Application of physical agent and mechanical modalities
169 and use of a range of therapeutic procedures to enhance
170 performance skills.

171 o. Efforts directed toward promoting occupational justice
172 and empowering clients to seek and obtain resources to fully
173 participate in occupations ~~Providing for the development of:~~
174 ~~sensory-motor, perceptual, or neuromuscular functioning; range~~
175 ~~of motion; or emotional, motivational, cognitive, or~~

176 ~~psychosocial components of performance.~~

177

178 ~~These services may require assessment of the need for use of~~
179 ~~interventions such as the design, development, adaptation,~~
180 ~~application, or training in the use of assistive technology~~
181 ~~devices; the design, fabrication, or application of~~
182 ~~rehabilitative technology such as selected orthotic devices;~~
183 ~~training in the use of assistive technology; orthotic or~~
184 ~~prosthetic devices; the application of physical agent modalities~~
185 ~~as an adjunct to or in preparation for purposeful activity; the~~
186 ~~use of ergonomic principles; the adaptation of environments and~~
187 ~~processes to enhance functional performance; or the promotion of~~
188 ~~health and wellness.~~

189 (c) The use of devices subject to 21 C.F.R. s. 801.109 and
190 identified by the board is expressly prohibited except by an
191 occupational therapist or occupational therapy assistant who has
192 received training as specified by the board. The board shall
193 adopt rules to carry out the purpose of this provision.

194 Section 2. Subsection (2) of section 468.209, Florida
195 Statutes, is amended to read:

196 468.209 Requirements for licensure.—

197 (2) An applicant who has practiced as a state-licensed or
198 American Occupational Therapy Association-certified occupational
199 therapy assistant for 4 years and who, before ~~prior to~~ January
200 24, 1988, completed a minimum of 24 weeks ~~6 months~~ of supervised

201 occupational-therapist-level fieldwork experience may take the
 202 examination to be licensed as an occupational therapist without
 203 meeting the educational requirements for occupational therapists
 204 made otherwise applicable under paragraph (1) (b).

205 Section 3. Subsection (2) of section 468.215, Florida
 206 Statutes, is amended to read:

207 468.215 Issuance of license.—

208 (2) Any person who is issued a license as an occupational
 209 therapist under the terms of this act may use the words
 210 "occupational therapist," "licensed occupational therapist,"
 211 "occupational therapist doctorate," or "occupational therapist
 212 registered," or he or she may use the letters "O.T.," "L.O.T.,"
 213 "O.T.D.," or "O.T.R.," in connection with his or her name or
 214 place of business to denote his or her registration hereunder.

215 Section 4. Section 468.223, Florida Statutes, is amended
 216 to read:

217 468.223 Prohibitions; penalties.—

218 (1) A person may not:

219 (a) Practice occupational therapy unless such person is
 220 licensed pursuant to ss. 468.201-468.225;

221 (b) Use, in connection with his or her name or place of
 222 business, the words "occupational therapist," "licensed
 223 occupational therapist," "occupational therapist doctorate,"
 224 "occupational therapist registered," "occupational therapy
 225 assistant," "licensed occupational therapy assistant,"

226 "certified occupational therapy assistant"; the letters "O.T.,"
 227 "L.O.T.," "O.T.D.," "O.T.R.," "O.T.A.," "L.O.T.A.," or
 228 "C.O.T.A."; or any other words, letters, abbreviations, or
 229 insignia indicating or implying that he or she is an
 230 occupational therapist or an occupational therapy assistant or,
 231 in any way, orally or in writing, in print or by sign, directly
 232 or by implication, to represent himself or herself as an
 233 occupational therapist or an occupational therapy assistant
 234 unless the person is a holder of a valid license issued pursuant
 235 to ss. 468.201-468.225;

236 (c) Present as his or her own the license of another;

237 (d) Knowingly give false or forged evidence to the board
 238 or a member thereof;

239 (e) Use or attempt to use a license that ~~which~~ has been
 240 suspended, revoked, or placed on inactive or delinquent status;

241 (f) Employ unlicensed persons to engage in the practice of
 242 occupational therapy; or

243 (g) Conceal information relative to any violation of ss.
 244 468.201-468.225.

245 (2) Any person who violates any provision of this section
 246 commits a misdemeanor of the second degree, punishable as
 247 provided in s. 775.082 or s. 775.083.

248 Section 5. Paragraph (e) is added to subsection (1) of
 249 section 468.225, Florida Statutes, to read:

250 468.225 Exemptions.—

251 (1) Nothing in this act shall be construed as preventing
 252 or restricting the practice, services, or activities of:

253 (e) Any person fulfilling an occupational therapy doctoral
 254 capstone experience that involves clinical practice or projects.

255 Section 6. For the purpose of incorporating the amendment
 256 made by this act to section 468.203, Florida Statutes, in a
 257 reference thereto, paragraph (c) of subsection (5) of section
 258 1002.385, Florida Statutes, is reenacted to read:

259 1002.385 The Gardiner Scholarship.—

260 (5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must
 261 be used to meet the individual educational needs of an eligible
 262 student and may be spent for the following purposes:

263 (c) Specialized services by approved providers or by a
 264 hospital in this state which are selected by the parent. These
 265 specialized services may include, but are not limited to:

266 1. Applied behavior analysis services as provided in ss.
 267 627.6686 and 641.31098.

268 2. Services provided by speech-language pathologists as
 269 defined in s. 468.1125.

270 3. Occupational therapy services as defined in s. 468.203.

271 4. Services provided by physical therapists as defined in
 272 s. 486.021.

273 5. Services provided by listening and spoken language
 274 specialists and an appropriate acoustical environment for a
 275 child who is deaf or hard of hearing and who has received an

276 | implant or assistive hearing device.

277 |

278 | A provider of any services receiving payments pursuant to this
279 | subsection may not share, refund, or rebate any moneys from the
280 | Gardiner Scholarship with the parent or participating student in
281 | any manner. A parent, student, or provider of any services may
282 | not bill an insurance company, Medicaid, or any other agency for
283 | the same services that are paid for using Gardiner Scholarship
284 | funds.

285 | Section 7. For the purpose of incorporating the amendment
286 | made by this act to section 468.203, Florida Statutes, in a
287 | reference thereto, paragraph (c) of subsection (2) of section
288 | 1002.66, Florida Statutes, is reenacted to read:

289 | 1002.66 Specialized instructional services for children
290 | with disabilities.—

291 | (2) The parent of a child who is eligible for the
292 | prekindergarten program for children with disabilities may
293 | select one or more specialized instructional services that are
294 | consistent with the child's individual educational plan. These
295 | specialized instructional services may include, but are not
296 | limited to:

297 | (c) Occupational therapy as defined in s. 468.203.

298 | Section 8. This act shall take effect July 1, 2021.