

By the Committee on Health Policy; and Senator Bradley

588-02668-21

2021990c1

1 A bill to be entitled
2 An act relating to occupational therapy; amending s.
3 468.203, F.S.; revising and defining terms; amending
4 s. 468.209, F.S.; revising the fieldwork experience
5 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; amending s. 468.223, F.S.;
10 prohibiting certain persons from using a specified
11 title and initials; providing criminal penalties;
12 amending s. 468.225, F.S.; providing construction;
13 reenacting ss. 1002.385(5)(c) and 1002.66(2)(c), F.S.,
14 relating to the Gardiner Scholarship and specialized
15 instructional services for children with disabilities,
16 respectively, to incorporate the amendment made to s.
17 468.203, F.S., in references thereto; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Subsection (4) of section 468.203, Florida
23 Statutes, is amended to read:

24 468.203 Definitions.—As used in this act, the term:

25 (4) "Occupational therapy" means the therapeutic use of
26 occupations with individuals, groups, or populations, along with
27 their families or organizations to support participation,
28 performance, and function in roles and situations in the home,
29 school, workplace, community, and other settings for clients who

588-02668-21

2021990c1

30 have or are at risk of developing an illness, injury, disease,
31 disorder, condition, impairment, disability, activity
32 limitation, or participation restriction ~~purposeful activity or~~
33 ~~interventions to achieve functional outcomes.~~

34 (a) For the purposes of this subsection:

35 1. "Activities of daily living" means functions and tasks
36 for self-care which are performed on a daily or routine basis,
37 including functional mobility, bathing, dressing, eating and
38 swallowing, personal hygiene and grooming, toileting, and other
39 similar tasks ~~"Achieving functional outcomes" means to maximize~~
40 ~~the independence and the maintenance of health of any individual~~
41 ~~who is limited by a physical injury or illness, a cognitive~~
42 ~~impairment, a psychosocial dysfunction, a mental illness, a~~
43 ~~developmental or a learning disability, or an adverse~~
44 ~~environmental condition.~~

45 2. "Assessment" means the use of skilled observation or the
46 administration and interpretation of standardized or
47 nonstandardized tests and measurements to identify areas for
48 occupational therapy services.

49 3. "Behavioral health services" means the promotion of
50 occupational performance through services to support positive
51 mental health by providing direct individual and group
52 interventions to improve the client's participation in daily
53 occupations.

54 4. "Health management" means activities related to
55 developing, managing, and maintaining health and wellness,
56 including self-management, with the goal of improving or
57 maintaining health to support participation in occupations.

58 5. "Instrumental activities of daily living" means daily or

588-02668-21

2021990c1

59 routine activities a person must perform to live independently
60 within the home and community.

61 6. "Mental health services" means the promotion of
62 occupational performance related to mental health, coping,
63 resilience, and well-being by providing individual, group, and
64 population level supports and services to improve the client's
65 participation in daily occupations for those who are at risk of,
66 experiencing, or in recovery from these conditions, along with
67 their families and communities.

68 7. "Occupations" means meaningful and purposeful everyday
69 activities performed and engaged in by individuals, groups,
70 populations, families, or communities which occur in contexts
71 and over time, such as activities of daily living, instrumental
72 activities of daily living, health management, rest and sleep,
73 education, work, play, leisure, and social participation. The
74 term includes more specific occupations and execution of
75 multiple activities that are influenced by performance patterns,
76 performance skills, and client factors.

77 8. "Occupational performance" means the ability to
78 perceive, desire, recall, plan, and carry out roles, routines,
79 tasks, and subtasks for the purposes of self-maintenance, self-
80 preservation, productivity, leisure, and rest, for oneself or
81 others, in response to internal or external demands of
82 occupations and contexts.

83 (b) The practice of occupational therapy includes services
84 include, but ~~is~~ are not limited to:

85 1. Assessment, treatment, and education of, and
86 consultation with, individuals, groups, and populations whose
87 abilities to participate safely in occupations, including

588-02668-21

2021990c1

88 activities of daily living, instrumental activities of daily
89 living, rest and sleep, education, work, play, leisure, and
90 social participation, are impaired or at risk for impairment due
91 to issues related to, but not limited to, developmental
92 deficiencies, the aging process, learning disabilities, physical
93 environment and sociocultural context, physical injury or
94 disease, cognitive impairments, and psychological and social
95 disabilities ~~The assessment, treatment, and education of or~~
96 ~~consultation with the individual, family, or other persons.~~

97 2. Methods or approaches to determine abilities and
98 limitations related to performance of occupations, including,
99 but not limited to, the identification of physical, sensory,
100 cognitive, emotional, or social deficiencies ~~Interventions~~
101 ~~directed toward developing daily living skills, work readiness~~
102 ~~or work performance, play skills or leisure capacities, or~~
103 ~~enhancing educational performance skills.~~

104 3. Specific occupational therapy techniques used for
105 treatment which involve, but are not limited to, training in
106 activities of daily living; environmental modification; the
107 designing, fabrication, and application of orthotics or orthotic
108 devices; selecting, applying, and training in the use of
109 assistive technology and adaptive devices; sensory, motor, and
110 cognitive activities; therapeutic exercises; manual therapy;
111 physical agent modalities; behavioral health services; and
112 mental health services ~~Providing for the development of:~~
113 ~~sensory-motor, perceptual, or neuromuscular functioning; range~~
114 ~~of motion; or emotional, motivational, cognitive, or~~
115 ~~psychosocial components of performance.~~

588-02668-21

2021990c1

117 ~~These services may require assessment of the need for use of~~
118 ~~interventions such as the design, development, adaptation,~~
119 ~~application, or training in the use of assistive technology~~
120 ~~devices; the design, fabrication, or application of~~
121 ~~rehabilitative technology such as selected orthotic devices;~~
122 ~~training in the use of assistive technology; orthotic or~~
123 ~~prosthetic devices; the application of physical agent modalities~~
124 ~~as an adjunct to or in preparation for purposeful activity; the~~
125 ~~use of ergonomic principles; the adaptation of environments and~~
126 ~~processes to enhance functional performance; or the promotion of~~
127 ~~health and wellness.~~

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

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

135 468.209 Requirements for licensure.—

136 (2) An applicant who has practiced as a state-licensed or
137 American Occupational Therapy Association-certified occupational
138 therapy assistant for 4 years and who, before ~~prior to~~ January
139 24, 1988, completed a minimum of 24 weeks ~~6 months~~ of supervised
140 occupational-therapist-level fieldwork experience may take the
141 examination to be licensed as an occupational therapist without
142 meeting the educational requirements for occupational therapists
143 made otherwise applicable under paragraph (1) (b).

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

588-02668-21

2021990c1

146 468.215 Issuance of license.—

147 (2) Any person who is issued a license as an occupational
148 therapist under the terms of this act may use the words
149 "occupational therapist," "licensed occupational therapist,"
150 "occupational therapist doctorate," or "occupational therapist
151 registered," or he or she may use the letters "O.T.," "L.O.T.,"
152 "O.T.D.," or "O.T.R.," in connection with his or her name or
153 place of business to denote his or her registration hereunder.

154 Section 4. Section 468.223, Florida Statutes, is amended to
155 read:

156 468.223 Prohibitions; penalties.—

157 (1) A person may not:

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

160 (b) Use, in connection with his or her name or place of
161 business, the words "occupational therapist," "licensed
162 occupational therapist," "occupational therapist doctorate,"
163 "occupational therapist registered," "occupational therapy
164 assistant," "licensed occupational therapy assistant,"
165 "certified occupational therapy assistant"; the letters "O.T.,"
166 "L.O.T.," "O.T.D.," "O.T.R.," "O.T.A.," "L.O.T.A.," or
167 "C.O.T.A."; or any other words, letters, abbreviations, or
168 insignia indicating or implying that he or she is an
169 occupational therapist or an occupational therapy assistant or,
170 in any way, orally or in writing, in print or by sign, directly
171 or by implication, to represent himself or herself as an
172 occupational therapist or an occupational therapy assistant
173 unless the person is a holder of a valid license issued pursuant
174 to ss. 468.201-468.225;

588-02668-21

2021990c1

- 175 (c) Present as his or her own the license of another;
- 176 (d) Knowingly give false or forged evidence to the board or
177 a member thereof;
- 178 (e) Use or attempt to use a license that ~~which~~ has been
179 suspended, revoked, or placed on inactive or delinquent status;
- 180 (f) Employ unlicensed persons to engage in the practice of
181 occupational therapy; or
- 182 (g) Conceal information relative to any violation of ss.
183 468.201-468.225.

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

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

189 468.225 Exemptions.—

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

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

194 Section 6. For the purpose of incorporating the amendment
195 made by this act to section 468.203, Florida Statutes, in a
196 reference thereto, paragraph (c) of subsection (5) of section
197 1002.385, Florida Statutes, is reenacted to read:

198 1002.385 The Gardiner Scholarship.—

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

202 (c) Specialized services by approved providers or by a
203 hospital in this state which are selected by the parent. These

588-02668-21

2021990c1

204 specialized services may include, but are not limited to:

205 1. Applied behavior analysis services as provided in ss.
206 627.6686 and 641.31098.

207 2. Services provided by speech-language pathologists as
208 defined in s. 468.1125.

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

210 4. Services provided by physical therapists as defined in
211 s. 486.021.

212 5. Services provided by listening and spoken language
213 specialists and an appropriate acoustical environment for a
214 child who is deaf or hard of hearing and who has received an
215 implant or assistive hearing device.

216

217 A provider of any services receiving payments pursuant to this
218 subsection may not share, refund, or rebate any moneys from the
219 Gardiner Scholarship with the parent or participating student in
220 any manner. A parent, student, or provider of any services may
221 not bill an insurance company, Medicaid, or any other agency for
222 the same services that are paid for using Gardiner Scholarship
223 funds.

224 Section 7. For the purpose of incorporating the amendment
225 made by this act to section 468.203, Florida Statutes, in a
226 reference thereto, paragraph (c) of subsection (2) of section
227 1002.66, Florida Statutes, is reenacted to read:

228 1002.66 Specialized instructional services for children
229 with disabilities.—

230 (2) The parent of a child who is eligible for the
231 prekindergarten program for children with disabilities may
232 select one or more specialized instructional services that are

588-02668-21

2021990c1

233 consistent with the child's individual educational plan. These
234 specialized instructional services may include, but are not
235 limited to:

236 (c) Occupational therapy as defined in s. 468.203.

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