

By the Committee on Health Policy; and Senator Bradley

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1 A bill to be entitled
2 An act relating to occupational therapy; amending s.
3 468.203, F.S.; defining and revising terms; amending
4 s. 468.209, F.S.; revising eligibility requirements
5 for the occupational therapist licensure examination;
6 amending s. 468.215, F.S.; authorizing certain
7 licensed occupational therapists to use a specified
8 title and the associated initials; amending s.
9 468.223, F.S.; prohibiting certain persons from using
10 a specified title and the associated initials;
11 providing criminal penalties; amending ss. 468.225,
12 490.014, and 491.014, F.S.; revising construction;
13 reenacting s. 490.012(1)(c), F.S., relating to
14 violations, penalties, and injunctions, to incorporate
15 the amendment made to s. 490.014, F.S., in a reference
16 thereto; amending s. 1002.394, F.S.; conforming a
17 provision to changes made by the act; reenacting s.
18 1002.66(2)(c), F.S., relating to specialized
19 instructional services for children with disabilities,
20 to incorporate the amendments made to s. 468.203,
21 F.S., in a reference thereto; providing an effective
22 date.

23
24 Be It Enacted by the Legislature of the State of Florida:

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

28 468.203 Definitions.—As used in this act, the term:
29 (4) "Occupational therapy" means the therapeutic use of

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30 occupations through habilitation, rehabilitation, and the
31 promotion of health and wellness with individuals, groups, or
32 populations, along with their families or organizations, to
33 support participation, performance, and function in the home, at
34 school, in the workplace, in the community, and in other
35 settings for clients who have, or who have been identified as
36 being at risk of developing, an illness, an injury, a disease, a
37 disorder, a condition, an impairment, a disability, an activity
38 limitation, or a participation restriction ~~purposeful activity~~
39 ~~or interventions to achieve functional outcomes.~~

40 (a) For the purposes of this subsection:

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

51 2. "Assessment" means the use of skilled observation or the
52 administration and interpretation of standardized or
53 nonstandardized tests and measurements to identify areas for
54 occupational therapy services.

55 3. "Health management" means therapeutic services designed
56 to develop, manage, and maintain health and wellness routines,
57 including self-management, performed with the goal of improving
58 or maintaining health to support participation in occupations.

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59 4. "Instrumental activities of daily living" means daily or
60 routine activities a person must perform to live independently
61 within the home and community.

62 5. "Occupational performance" means the ability to
63 perceive, desire, recall, plan, and carry out roles, routines,
64 tasks, and subtasks for the purpose of self-maintenance, self-
65 preservation, productivity, leisure, and rest, for oneself or
66 for others, in response to internal or external demands of
67 occupations and contexts.

68 6. "Occupational therapy services in mental health" means
69 occupation-based interventions and services for individuals,
70 groups, populations, families, or communities to improve
71 participation in daily occupations for individuals who are
72 experiencing, are in recovery from, or are identified as being
73 at risk of developing mental health conditions.

74 7. "Occupations" means meaningful and purposeful everyday
75 activities performed and engaged in by individuals, groups,
76 populations, families, or communities which occur in contexts
77 and over time, such as activities of daily living, instrumental
78 activities of daily living, health management, rest and sleep,
79 education, work, play, leisure, and social participation. The
80 term includes more specific occupations and the execution of
81 multiple activities that are influenced by performance patterns,
82 performance skills, and client factors, and that result in
83 varied outcomes.

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

86 1. ~~The~~ Assessment, treatment, and education of or
87 consultation with individuals, groups, and populations whose

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88 abilities to participate safely in occupations, including
89 activities of daily living, instrumental activities of daily
90 living, rest and sleep, education, work, play, leisure, and
91 social participation, are impaired or have been identified as
92 being at risk of impairment due to issues related to, but not
93 limited to, developmental deficiencies, the aging process,
94 learning disabilities, physical environment and sociocultural
95 context, physical injury or disease, cognitive impairments, or
96 psychological and social disabilities ~~the individual, family, or~~
97 ~~other persons.~~

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

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

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117 of performance.

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

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

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

137 468.209 Requirements for licensure.—

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

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

148 468.215 Issuance of license.—

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

156 (b) Any person who is issued a license as an occupational
157 therapist under the terms of this act and holds a doctorate
158 degree in occupational therapy may also use the words
159 "occupational therapist doctorate" and the letters "O.T.D." in
160 connection with his or her name or place of business to denote
161 his or her registration hereunder.

162 Section 4. Section 468.223, Florida Statutes, is amended to
163 read:

164 468.223 Prohibitions; penalties.—

165 (1) A person may not:

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

168 (b) Use, in connection with his or her name or place of
169 business, the words "occupational therapist," "licensed
170 occupational therapist," "occupational therapist doctorate,"
171 "occupational therapist registered," "occupational therapy
172 assistant," "licensed occupational therapy assistant,"
173 "certified occupational therapy assistant"; the letters "O.T.,"
174 "L.O.T.," "O.T.D.," "O.T.R.," "O.T.A.," "L.O.T.A.," or

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175 "C.O.T.A."; or any other words, letters, abbreviations, or
176 insignia indicating or implying that he or she is an
177 occupational therapist or an occupational therapy assistant or,
178 in any way, orally or in writing, in print or by sign, directly
179 or by implication, to represent himself or herself as an
180 occupational therapist or an occupational therapy assistant
181 unless the person is a holder of a valid license issued pursuant
182 to ss. 468.201-468.225;

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

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

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

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

190 (g) Conceal information relative to any violation of ss.
191 468.201-468.225.

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

195 Section 5. Subsection (2) of section 468.225, Florida
196 Statutes, is amended, and paragraph (e) is added to subsection
197 (1) of that section, to read:

198 468.225 Exemptions.—

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

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

203 To benefit from an exemption under this paragraph, a person must

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204 register with the department in a manner determined by
205 department rule before commencing the capstone experience.

206 (2) No provision of this act shall be construed to prohibit
207 physicians, physician assistants, nurses, physical therapists,
208 osteopathic physicians or surgeons, clinical psychologists,
209 clinical social workers, marriage and family therapists, mental
210 health counselors, speech-language pathologists, or audiologists
211 from using occupational therapy as a part of or incidental to
212 their profession, when they practice their profession under the
213 statutes applicable to their profession.

214 Section 6. Paragraph (b) of subsection (1) of section
215 490.014, Florida Statutes, is amended to read:

216 490.014 Exemptions.—

217 (1)

218 (b) No provision of this chapter shall be construed to
219 limit the practice of nursing, clinical social work, marriage
220 and family therapy, mental health counseling, occupational
221 therapy, or other recognized businesses or professions, or to
222 prevent qualified members of other professions from doing work
223 of a nature consistent with their training, so long as they do
224 not hold themselves out to the public as psychologists or use a
225 title or description protected by this chapter. Nothing in this
226 subsection shall be construed to exempt any person from the
227 provisions of s. 490.012.

228 Section 7. Subsection (2) of section 491.014, Florida
229 Statutes, is amended to read:

230 491.014 Exemptions.—

231 (2) No provision of this chapter shall be construed to
232 limit the practice of nursing, school psychology, ~~or~~ psychology,

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233 or occupational therapy, or to prevent qualified members of
234 other professions from doing work of a nature consistent with
235 their training and licensure, so long as they do not hold
236 themselves out to the public as possessing a license,
237 provisional license, registration, or certificate issued
238 pursuant to this chapter or use a title protected by this
239 chapter.

240 Section 8. For the purpose of incorporating the amendment
241 made by this act to section 490.014, Florida Statutes, in a
242 reference thereto, paragraph (c) of subsection (1) of section
243 490.012, Florida Statutes, is reenacted to read:

244 490.012 Violations; penalties; injunction.—

245 (1)

246 (c) No person shall hold herself or himself out by any
247 title or description incorporating the words, or permutations of
248 them, "psychology," "psychological," or "psychodiagnostic," or
249 describe any test or report as psychological, unless such person
250 holds a valid, active license under this chapter or is exempt
251 from the provisions of this chapter.

252 Section 9. Paragraph (b) of subsection (4) of section
253 1002.394, Florida Statutes, is amended to read:

254 1002.394 The Family Empowerment Scholarship Program.—

255 (4) AUTHORIZED USES OF PROGRAM FUNDS.—

256 (b) Program funds awarded to a student with a disability
257 determined eligible pursuant to paragraph (3) (b) may be used for
258 the following purposes:

259 1. Instructional materials, including digital devices,
260 digital periphery devices, and assistive technology devices that
261 allow a student to access instruction or instructional content

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262 and training on the use of and maintenance agreements for these
263 devices.

264 2. Curriculum as defined in subsection (2).

265 3. Specialized services by approved providers or by a
266 hospital in this state which are selected by the parent. These
267 specialized services may include, but are not limited to:

268 a. Applied behavior analysis services as provided in ss.
269 627.6686 and 641.31098.

270 b. Services provided by speech-language pathologists as
271 defined in s. 468.1125(8).

272 c. Occupational therapy ~~services~~ as defined in s. 468.203.

273 d. Services provided by physical therapists as defined in
274 s. 486.021(8).

275 e. Services provided by listening and spoken language
276 specialists and an appropriate acoustical environment for a
277 child who has a hearing impairment, including deafness, and who
278 has received an implant or assistive hearing device.

279 4. Tuition or fees associated with full-time or part-time
280 enrollment in a home education program, an eligible private
281 school, an eligible postsecondary educational institution or a
282 program offered by the postsecondary educational institution, a
283 private tutoring program authorized under s. 1002.43, a virtual
284 program offered by a department-approved private online provider
285 that meets the provider qualifications specified in s.
286 1002.45(2)(a), the Florida Virtual School as a private paying
287 student, or an approved online course offered pursuant to s.
288 1003.499 or s. 1004.0961.

289 5. Fees for nationally standardized, norm-referenced
290 achievement tests, Advanced Placement Examinations, industry

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291 certification examinations, assessments related to postsecondary
292 education, or other assessments.

293 6. Contributions to the Stanley G. Tate Florida Prepaid
294 College Program pursuant to s. 1009.98 or the Florida College
295 Savings Program pursuant to s. 1009.981 for the benefit of the
296 eligible student.

297 7. Contracted services provided by a public school or
298 school district, including classes. A student who receives
299 services under a contract under this paragraph is not considered
300 enrolled in a public school for eligibility purposes as
301 specified in subsection (6).

302 8. Tuition and fees for part-time tutoring services
303 provided by a person who holds a valid Florida educator's
304 certificate pursuant to s. 1012.56, a person who holds an
305 adjunct teaching certificate pursuant to s. 1012.57, a person
306 who has a bachelor's degree or a graduate degree in the subject
307 area in which instruction is given, a person who has
308 demonstrated a mastery of subject area knowledge pursuant to s.
309 1012.56(5), or a person certified by a nationally or
310 internationally recognized research-based training program as
311 approved by the department. As used in this paragraph, the term
312 "part-time tutoring services" does not qualify as regular school
313 attendance as defined in s. 1003.01(13)(e).

314 9. Fees for specialized summer education programs.

315 10. Fees for specialized after-school education programs.

316 11. Transition services provided by job coaches.

317 12. Fees for an annual evaluation of educational progress
318 by a state-certified teacher under s. 1002.41(1)(f), if this
319 option is chosen for a home education student.

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320 13. Tuition and fees associated with programs offered by
321 Voluntary Prekindergarten Education Program providers approved
322 pursuant to s. 1002.55 and school readiness providers approved
323 pursuant to s. 1002.88.

324 14. Fees for services provided at a center that is a member
325 of the Professional Association of Therapeutic Horsemanship
326 International.

327 15. Fees for services provided by a therapist who is
328 certified by the Certification Board for Music Therapists or
329 credentialed by the Art Therapy Credentials Board, Inc.

330 Section 10. For the purpose of incorporating the amendment
331 made by this act to section 468.203, Florida Statutes, in a
332 reference thereto, paragraph (c) of subsection (2) of section
333 1002.66, Florida Statutes, is reenacted to read:

334 1002.66 Specialized instructional services for children
335 with disabilities.—

336 (2) The parent of a child who is eligible for the
337 prekindergarten program for children with disabilities may
338 select one or more specialized instructional services that are
339 consistent with the child's individual educational plan. These
340 specialized instructional services may include, but are not
341 limited to:

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

343 Section 11. This act shall take effect July 1, 2022.