

CHAPTER 2022-30

Committee Substitute for Senate Bill No. 632

An act relating to occupational therapy; amending s. 468.203, F.S.; defining and revising terms; amending s. 468.209, F.S.; revising eligibility requirements for the occupational therapist licensure examination; amending s. 468.215, F.S.; authorizing certain licensed occupational therapists to use a specified title and the associated initials; amending s. 468.223, F.S.; prohibiting certain persons from using a specified title and the associated initials; providing criminal penalties; amending ss. 468.225, 490.014, and 491.014, F.S.; revising construction; reenacting s. 490.012(1)(c), F.S., relating to violations, penalties, and injunctions, to incorporate the amendment made to s. 490.014, F.S., in a reference thereto; amending s. 1002.394, F.S.; conforming a provision to changes made by the act; reenacting s. 1002.66(2)(c), F.S., relating to specialized instructional services for children with disabilities, to incorporate the amendments made to s. 468.203, F.S., in a reference thereto; providing an effective date.

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

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

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

(4) “Occupational therapy” means the therapeutic use of occupations through habilitation, rehabilitation, and the promotion of health and wellness with individuals, groups, or populations, along with their families or organizations, to support participation, performance, and function in the home, at school, in the workplace, in the community, and in other settings for clients who have, or who have been identified as being at risk of developing, an illness, an injury, a disease, a disorder, a condition, an impairment, a disability, an activity limitation, or a participation restriction purposeful activity or interventions to achieve functional outcomes.

(a) For the purposes of this subsection:

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

2. “Assessment” means the use of skilled observation or the administration and interpretation of standardized or nonstandardized tests and measurements to identify areas for occupational therapy services.

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

4. “Instrumental activities of daily living” means daily or routine activities a person must perform to live independently within the home and community.

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

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

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

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

1. The Assessment, treatment, and education of or consultation with individuals, groups, and populations whose abilities to participate safely in occupations, including activities of daily living, instrumental activities of daily living, rest and sleep, education, work, play, leisure, and social participation, are impaired or have been identified as being at risk of impairment due to issues related to, but not limited to, developmental deficiencies, the aging process, learning disabilities, physical environment and sociocultural context, physical injury or disease, cognitive impairments, or psychological and social disabilities the individual, family, or other persons.

2. Methods or approaches used to determine abilities and limitations related to performance of occupations, including, but not limited to, the

~~identification of physical, sensory, cognitive, emotional, or social deficiencies
Interventions directed toward developing daily living skills, work readiness
or work performance, play skills or leisure capacities, or enhancing
educational performance skills.~~

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

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

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

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

468.209 Requirements for licensure.—

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

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

468.215 Issuance of license.—

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

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

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

468.223 Prohibitions; penalties.—

(1) A person may not:

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

(b) Use, in connection with his or her name or place of business, the words “occupational therapist,” “licensed occupational therapist,” “occupational therapist doctorate,” “occupational therapist registered,” “occupational therapy assistant,” “licensed occupational therapy assistant,” “certified occupational therapy assistant”; the letters “O.T.,” “L.O.T.,” “O.T.D.,” “O.T.R.,” “O.T.A.,” “L.O.T.A.,” or “C.O.T.A.”; or any other words, letters, abbreviations, or insignia indicating or implying that he or she is an occupational therapist or an occupational therapy assistant or, in any way, orally or in writing, in print or by sign, directly or by implication, to represent himself or herself as an occupational therapist or an occupational therapy assistant unless the person is a holder of a valid license issued pursuant to ss. 468.201-468.225;

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

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

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

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

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

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

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

468.225 Exemptions.—

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

(e) Any person fulfilling an occupational therapy doctoral capstone experience that involves clinical practice or projects. To benefit from an exemption under this paragraph, a person must register with the department in a manner determined by department rule before commencing the capstone experience.

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

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

490.014 Exemptions.—

(1)

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

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

491.014 Exemptions.—

(2) No provision of this chapter shall be construed to limit the practice of nursing, school psychology, ~~or~~ psychology, or occupational therapy, or to prevent qualified members of other professions from doing work of a nature consistent with their training and licensure, so long as they do not hold themselves out to the public as possessing a license, provisional license, registration, or certificate issued pursuant to this chapter or use a title protected by this chapter.

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

490.012 Violations; penalties; injunction.—

(1)

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

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

1002.394 The Family Empowerment Scholarship Program.—

(4) AUTHORIZED USES OF PROGRAM FUNDS.—

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

1. Instructional materials, including digital devices, digital periphery devices, and assistive technology devices that allow a student to access instruction or instructional content and training on the use of and maintenance agreements for these devices.

2. Curriculum as defined in subsection (2).

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

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

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

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

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

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

4. Tuition or fees associated with full-time or part-time enrollment in a home education program, an eligible private school, an eligible

postsecondary educational institution or a program offered by the postsecondary educational institution, a private tutoring program authorized under s. 1002.43, a virtual program offered by a department-approved private online provider that meets the provider qualifications specified in s. 1002.45(2)(a), the Florida Virtual School as a private paying student, or an approved online course offered pursuant to s. 1003.499 or s. 1004.0961.

5. Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.

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

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

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

9. Fees for specialized summer education programs.

10. Fees for specialized after-school education programs.

11. Transition services provided by job coaches.

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

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

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

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

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

1002.66 Specialized instructional services for children with disabilities.

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

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

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

Approved by the Governor April 6, 2022.

Filed in Office Secretary of State April 6, 2022.