

By 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 licensed
7 occupational therapists to use a specified title and
8 the associated initials; amending s. 468.223, F.S.;
9 prohibiting certain persons from using a specified
10 title and the associated initials; providing criminal
11 penalties; amending s. 468.225, F.S.; providing
12 construction; reenacting ss. 1002.394(4)(b) and
13 1002.66(2)(c), F.S., relating to the Family
14 Empowerment Scholarship Program and specialized
15 instructional services for children with disabilities,
16 respectively, to incorporate the amendments made by
17 the act to s. 468.203, F.S., in references thereto;
18 providing an 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 through habilitation, rehabilitation, and the
27 promotion of health and wellness with individuals, groups, or
28 populations, along with their families or organizations, to
29 support participation, performance, and function in the home, at

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30 school, in the workplace, in the community, and in other
31 settings for clients who have or are at risk of developing an
32 illness, an injury, a disease, a disorder, a condition, an
33 impairment, a disability, an activity limitation, or a
34 participation restriction ~~purposeful activity or interventions~~
35 ~~to achieve functional outcomes.~~

36 (a) For the purposes of this subsection:

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

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

51 3. "Health management" means activities related to
52 developing, managing, and maintaining health and wellness,
53 including self-management, performed with the goal of improving
54 or maintaining health to support participation in occupations.

55 4. "Instrumental activities of daily living" means daily or
56 routine activities a person must perform to live independently
57 within the home and community.

58 5. "Occupational performance" means the ability to

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59 perceive, desire, recall, plan, and carry out roles, routines,
60 tasks, and subtasks for the purpose of self-maintenance, self-
61 preservation, productivity, leisure, and rest, for oneself or
62 for others, in response to internal or external demands of
63 occupations and contexts.

64 6. "Occupational therapy services in mental health" means
65 individual, group, and population level occupation-based
66 interventions and services provided to improve participation in
67 daily occupations for individuals who are at risk of,
68 experiencing, or are recovering from mental health conditions,
69 along with their families and communities.

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

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

82 1. ~~The~~ Assessment, treatment, and education of or
83 consultation with individuals, groups, and populations whose
84 abilities to participate safely in occupations, including
85 activities of daily living, instrumental activities of daily
86 living, rest and sleep, education, work, play, leisure, and
87 social participation, are impaired or at risk for impairment due

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88 to issues related to, but not limited to, developmental
89 deficiencies, the aging process, learning disabilities, physical
90 environment and sociocultural context, physical injury or
91 disease, cognitive impairments, or psychological and social
92 disabilities ~~the individual, family, or other persons.~~

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

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

113
114 ~~These services may require assessment of the need for use of~~
115 ~~interventions such as the design, development, adaptation,~~
116 ~~application, or training in the use of assistive technology~~

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

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

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

133 468.209 Requirements for licensure.—

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

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

144 468.215 Issuance of license.—

145 (2) Any person who is issued a license as an occupational

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146 therapist under the terms of this act may use the words
147 "occupational therapist," "licensed occupational therapist,"
148 "occupational therapist doctorate," or "occupational therapist
149 registered," or ~~he or she~~ may use the letters "O.T.," "L.O.T.,"
150 "O.T.D.," or "O.T.R.," in connection with his or her name or
151 place of business to denote his or her registration hereunder.

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

154 468.223 Prohibitions; penalties.—

155 (1) A person may not:

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

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

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

174 (d) Knowingly give false or forged evidence to the board or

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175 a member thereof;

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

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

180 (g) Conceal information relative to any violation of ss.
181 468.201-468.225.

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

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

187 468.225 Exemptions.—

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

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

192 Section 6. For the purpose of incorporating the amendment
193 made by this act to section 468.203, Florida Statutes, in a
194 reference thereto, paragraph (b) of subsection (4) of section
195 1002.394, Florida Statutes, is reenacted to read:

196 1002.394 The Family Empowerment Scholarship Program.—

197 (4) AUTHORIZED USES OF PROGRAM FUNDS.—

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

201 1. Instructional materials, including digital devices,
202 digital periphery devices, and assistive technology devices that
203 allow a student to access instruction or instructional content

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204 and training on the use of and maintenance agreements for these
205 devices.

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

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

210 a. Applied behavior analysis services as provided in ss.
211 627.6686 and 641.31098.

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

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

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

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

221 4. Tuition or fees associated with full-time or part-time
222 enrollment in a home education program, an eligible private
223 school, an eligible postsecondary educational institution or a
224 program offered by the postsecondary educational institution, a
225 private tutoring program authorized under s. 1002.43, a virtual
226 program offered by a department-approved private online provider
227 that meets the provider qualifications specified in s.
228 1002.45(2)(a), the Florida Virtual School as a private paying
229 student, or an approved online course offered pursuant to s.
230 1003.499 or s. 1004.0961.

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

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233 certification examinations, assessments related to postsecondary
234 education, or other assessments.

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

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

244 8. Tuition and fees for part-time tutoring services
245 provided by a person who holds a valid Florida educator's
246 certificate pursuant to s. 1012.56, a person who holds an
247 adjunct teaching certificate pursuant to s. 1012.57, a person
248 who has a bachelor's degree or a graduate degree in the subject
249 area in which instruction is given, a person who has
250 demonstrated a mastery of subject area knowledge pursuant to s.
251 1012.56(5), or a person certified by a nationally or
252 internationally recognized research-based training program as
253 approved by the department. As used in this paragraph, the term
254 "part-time tutoring services" does not qualify as regular school
255 attendance as defined in s. 1003.01(13)(e).

256 9. Fees for specialized summer education programs.

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

258 11. Transition services provided by job coaches.

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

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

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

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

272 Section 7. For the purpose of incorporating the amendment
273 made by this act to section 468.203, Florida Statutes, in a
274 reference thereto, paragraph (c) of subsection (2) of section
275 1002.66, Florida Statutes, is reenacted to read:

276 1002.66 Specialized instructional services for children
277 with disabilities.—

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

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

285 Section 8. This act shall take effect July 1, 2022.