

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

35 (a) For the purposes of this subsection:

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

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

50 3. "Behavioral health services" means the promotion of

51 occupational performance through services to support positive
52 mental health by providing direct individual and group
53 interventions to improve the client's participation in daily
54 occupations.

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

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

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

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

76 multiple activities that are influenced by performance patterns,
77 performance skills, and client factors, resulting in varied
78 outcomes.

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

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

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

99 2. Methods or approaches to determine abilities and
100 limitations related to performance of occupations, including,

101 but not limited to, the identification of physical, sensory,
102 cognitive, emotional, or social deficiencies ~~Interventions~~
103 ~~directed toward developing daily living skills, work readiness~~
104 ~~or work performance, play skills or leisure capacities, or~~
105 ~~enhancing educational performance skills.~~

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

119
120 ~~These services may require assessment of the need for use of~~
121 ~~interventions such as the design, development, adaptation,~~
122 ~~application, or training in the use of assistive technology~~
123 ~~devices; the design, fabrication, or application of~~
124 ~~rehabilitative technology such as selected orthotic devices;~~
125 ~~training in the use of assistive technology; orthotic or~~

126 ~~prosthetic devices; the application of physical agent modalities~~
 127 ~~as an adjunct to or in preparation for purposeful activity; the~~
 128 ~~use of ergonomic principles; the adaptation of environments and~~
 129 ~~processes to enhance functional performance; or the promotion of~~
 130 ~~health and wellness.~~

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

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

138 468.209 Requirements for licensure.—

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

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

149 468.215 Issuance of license.—

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

151 therapist under the terms of this act may use the words
152 "occupational therapist," "licensed occupational therapist,"
153 "occupational therapist doctorate," or "occupational therapist
154 registered," or he or she may use the letters "O.T.," "L.O.T.,"
155 "O.T.D.," or "O.T.R.," in connection with his or her name or
156 place of business to denote his or her registration hereunder.

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

159 468.223 Prohibitions; penalties.—

160 (1) A person may not:

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

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

176 unless the person is a holder of a valid license issued pursuant
 177 to ss. 468.201-468.225;

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

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

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

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

185 (g) Conceal information relative to any violation of ss.
 186 468.201-468.225.

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

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

192 468.225 Exemptions.—

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

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

197 Section 6. For the purpose of incorporating the amendment
 198 made by this act to section 468.203, Florida Statutes, in a
 199 reference thereto, paragraph (c) of subsection (5) of section
 200 1002.385, Florida Statutes, is reenacted to read:

201 1002.385 The Gardiner Scholarship.—

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

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

208 1. Applied behavior analysis services as provided in ss.
 209 627.6686 and 641.31098.

210 2. Services provided by speech-language pathologists as
 211 defined in s. 468.1125.

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

213 4. Services provided by physical therapists as defined in
 214 s. 486.021.

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

219

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

226 funds.

227 Section 7. For the purpose of incorporating the amendment
228 made by this act to section 468.203, Florida Statutes, in a
229 reference thereto, paragraph (c) of subsection (2) of section
230 1002.66, Florida Statutes, is reenacted to read:

231 1002.66 Specialized instructional services for children
232 with disabilities.—

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

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

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