

SENATE FILE NO. SF0042

Occupational Therapy Practice Act.

Sponsored by: Joint Corporations, Elections & Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to professions and occupations; amending
2 the Occupational Therapy Practice Act; adding and amending
3 definitions; defining unprofessional conduct; amending the
4 scope of practice; amending licensure and temporary
5 licensure standards; amending standards for reentry into
6 the profession; amending provisions related to foreign
7 license applicants; amending continuing education
8 requirements; specifying who must hold a license;
9 specifying the role of unlicensed persons; repealing
10 archaic provisions; amending board duties and procedures;
11 providing for licensure waiver; repealing criminal
12 penalties; and providing for an effective date.

13

14 *Be It Enacted by the Legislature of the State of Wyoming:*

15

1 **Section 1.** W.S. 33-40-102(a)(ii), (iii)(intro), by
 2 creating new subparagraphs (J) through (P), (iv), by
 3 creating new paragraphs (v) and (vi) and by renumbering (v)
 4 as (vii), 33-40-103(a) and (c), 33-40-104(a)(iii) and
 5 (iv)(intro), 33-40-106(a)(intro), (i), by creating a new
 6 paragraph (v), (b)(i) and (ii), 33-40-107(b) and (c),
 7 33-40-108(a), (c) and by creating a new subsection (d),
 8 33-40-110(a) and by creating a new subsection (f),
 9 33-40-111, 33-40-113(a)(intro), 33-40-114(a), (b),
 10 (c)(intro) and (iii) and 33-40-115(c) are amended to read:

11

12 **33-40-102. Definitions.**

13

14 (a) As used in this act:

15

16 (ii) "~~Certified~~ Occupational therapy assistant"
 17 or "OTA" means a person licensed under this act to assist
 18 in the practice of occupational therapy, ~~under this act,~~
 19 and who works under the supervision of ~~a registered~~ an
 20 occupational therapist to perform tasks requiring
 21 occupational therapy professional knowledge or judgment;

22

1 (iii) "Occupational therapy" ~~is the use of~~
2 ~~purposeful activity with individuals who are limited by~~
3 ~~physical injury or illness, psychosocial dysfunction,~~
4 ~~developmental or learning disabilities or the aging process~~
5 ~~in order to maximize independence, prevent disability and~~
6 ~~maintain health. The practice encompasses evaluation,~~
7 ~~treatment and consultation. Specific occupational therapy~~
8 ~~services include but are not limited to the following~~
9 ~~services provided individually, in groups or through social~~
10 ~~systems~~ means:

11
12 (J) The therapeutic use of occupations
13 including everyday life activities with individuals,
14 groups, populations or organizations to support
15 participation, performance and function in roles and
16 situations in home, school, workplace, community and other
17 settings;

18
19 (K) The provision of services for
20 habilitation, rehabilitation and the promotion of health
21 and wellness to those who have or are at risk for
22 developing an illness, injury, disease, disorder,

1 condition, impairment, disability, activity limitation or
2 participation restriction;

3
4 (M) Addressing the physical, cognitive,
5 psychosocial, sensory-perceptual and other aspects of
6 performance in a variety of contexts and environments to
7 support engagement in occupations, contexts and
8 environments that affect physical and mental health,
9 well-being and quality of life;

10

11 (N) Performing the tasks of occupational
12 therapy through personal interaction or appropriate use of
13 telecommunication services and other communication
14 technologies;

15

16 (O) Performing the tasks of an occupational
17 therapist or occupational therapy assistant commensurate
18 with his education, training and experience;

19

20 (P) The practice of occupational therapy
21 which includes:

22

1 (I) The evaluation of factors
2 affecting activities of daily living, instrumental
3 activities of daily living, rest and sleep, education,
4 work, play, leisure and social participation;

5
6 (II) The use of methods or approaches
7 to direct the process of interventions; and

8
9 (III) The use of interventions and
10 procedures to promote or enhance safety and performance in
11 activities of daily living, instrumental activities of
12 daily living, rest and sleep, education, work, play,
13 leisure and social participation.

14
15 (iv) "~~Registered~~ Occupational therapist" means a
16 person licensed to practice occupational therapy under this
17 act;

18
19 (v) "Occupational therapy telehealth" means the
20 provision of occupational therapy services across a
21 distance, using telecommunications technology for the
22 evaluation, intervention or consultation without requiring

1 the occupational therapist and recipient to be physically
2 located in the same place;

3
4 (vi) "Unprofessional conduct" means:

5
6 (A) Committing any act involving a patient
7 or which adversely relates to the practice of occupational
8 therapy which results in a felony or misdemeanor
9 conviction. A plea of guilty, nolo contendere or similar
10 plea shall be considered a conviction;

11
12 (B) Violating professional sexual
13 boundaries by soliciting, encouraging, threatening, forcing
14 or engaging in any sexual act or relationship with a
15 patient, regardless of consent. A consensual sexual act or
16 relationship shall not be deemed unprofessional conduct if
17 the patient licensee relationship is terminated prior to
18 the sexual act or relationship or if the sexual act or
19 relationship occurs prior to any patient licensee
20 relationship. The treatment of a spouse or significant
21 other where the relationship is in place prior to the
22 beginning of any patient licensee relationship shall not be

1 unprofessional conduct if treatment is conducted without
2 third party compensation;

3
4 (C) Sexual harassment of a patient or staff
5 member;

6
7 (D) Being diagnosed with substance abuse as
8 defined by W.S. 35-1-613(a) (viii);

9
10 (E) Denial of a license to practice
11 occupational therapy or any disciplinary action against a
12 licensee by any other state, the District of Columbia,
13 territory or country for an action constituting
14 unprofessional conduct in Wyoming;

15
16 (F) Failure to report to the board known or
17 reasonably suspected violations of the laws and regulations
18 governing the practice of occupational therapy in Wyoming;

19
20 (G) Submission of false information to the
21 board;

22

1 (H) Failure to notify the board within
2 thirty (30) days of a malpractice final judgement or
3 settlement involving the occupational therapist;

4
5 (J) Aiding or abetting the practice of
6 occupational therapy in violation of W.S. 33-40-103 by any
7 person not licensed to practice in Wyoming;

8
9 (K) Submission of false or materially
10 misleading billing information;

11
12 (M) Using any term other than "occupational
13 therapist, registered," "occupational therapist," "OT,"
14 "certified occupational therapist," "COTA," "occupational
15 therapy assistant" or "OTA" to reflect licensure;

16
17 (N) Employing, either directly or
18 indirectly, any licensee under suspension or revocation,
19 except as may be authorized by the board, or any person not
20 licensed to practice occupational therapy to perform any
21 task requiring licensure except that an unlicensed person
22 may be employed to perform tasks under supervision not

1 requiring occupational therapy professional knowledge or
2 judgement;

3
4 (O) Accepting payment for any part of
5 professional services delivered as a volunteer;

6
7 (P) Obtaining a license by means of fraud,
8 misrepresentation or concealment of material facts;

9
10 (Q) Violating any lawful order, rule or
11 regulation adopted by the board;

12
13 (R) Violating any provision of this act.

14
15 ~~(v)~~ (vii) "This act" means W.S. 33-40-101 through
16 ~~33-40-117~~ 33-40-115.

17
18 **33-40-103. License required.**

19
20 (a) ~~Effective on July 1, 1992,~~ No person shall hold
21 himself out as an occupational therapist, ~~registered~~
22 ~~occupational therapist, occupational therapy assistant or~~
23 ~~certified~~ an occupational therapy assistant or as being

1 able to practice occupational therapy in Wyoming unless he
2 is licensed under this act. An unlicensed person holding
3 himself out as an occupational therapist or occupational
4 therapist assistant by using additional or modifying words
5 in his title, printed materials, advertisements or
6 otherwise shall be deemed to be holding himself out as an
7 occupational therapist or occupational therapist assistant.

8
9 (c) Only an individual may be licensed under this act
10 and no entity, either private or governmental, shall hold
11 itself out as providing occupational therapy to any person
12 unless all individuals providing occupational therapy are
13 licensed under this act.

14
15 **33-40-104. Persons and practices not affected.**

16
17 (a) Nothing in this act shall be construed as
18 preventing or restricting the practice, services or
19 activities of:

20
21 (iii) Any person engaged in the supervised
22 fieldwork to complete the necessary educational
23 requirements of W.S. ~~33-40-106(a)(iii)~~ 33-40-106;

1

2 (iv) Any person performing occupational therapy
3 ~~services~~ or acting as an occupational therapy assistant for
4 no more than ~~forty-five (45)~~ twenty (20) days in a calendar
5 year ~~in association with an occupational therapist~~ for the
6 purpose of educating students or providing continuing
7 education to persons licensed under this act, if:

8

9 **33-40-106. Requirements for licensure; continuing**
10 **education.**

11

12 (a) An applicant applying for a license as ~~a~~
13 ~~registered~~ an occupational therapist or ~~as a certified~~
14 occupational therapy assistant shall file a specified
15 written application showing to the satisfaction of the
16 board that the applicant:

17

18 (i) Has a good reputation for honesty,
19 trustworthiness and competence in all matters relevant to
20 practicing the profession of occupational ~~therapist~~
21 therapy; and

22

1 (v) Has obtained national certification by
2 successful completion of the national certification exam
3 from a certification agency recognized by the board in its
4 rules.

5
6 (b) The board may establish continuing education
7 requirements for an active license provided that:

8
9 (i) The requirement shall not be more than
10 sixteen (16) contact hours of continuing education per
11 year; and

12
13 (ii) Continuing education taken any time in the
14 three (3) years preceding the annual license renewal may be
15 counted toward fulfilling the requirement but it shall not
16 be counted more than once. ~~and~~

17
18 **33-40-107. Examination for license of occupational**
19 **therapists and occupational therapy assistants.**

20
21 (b) Each applicant for licensure shall be given a
22 written examination on the basic and clinical sciences
23 relating to occupational therapy, occupational therapy

1 techniques and methods to determine the applicant's fitness
2 to practice. The board shall designate the examination for
3 ~~registered~~ occupational therapists and the examination for
4 ~~certified~~ occupational therapy assistants and shall
5 establish standards for acceptable performance.

6

7 (c) Examination shall be conducted as specified by
8 the board ~~at least twice~~ not less than two (2) times each
9 year.

10

11 **33-40-108. Waiver of requirements; temporary**
12 **licenses.**

13

14 (a) The board shall grant a license to any person
15 certified prior to July 1, 1992 as an occupational
16 therapist registered (OTR) or as a certified occupational
17 therapy assistant (COTA) by the American occupational
18 therapy certification board (AOTCB). ~~The board may waive~~
19 ~~the examination, education, or experience requirements and~~
20 ~~grant a license to any person certified by the AOTCB after~~
21 ~~July 1, 1992, if the board determines the requirements for~~
22 ~~the certification are equivalent to the requirements for~~
23 ~~licensure in this act.~~

1

2 (c) The board may establish provisions for a
3 temporary license so an applicant may ~~work~~practice
4 occupational therapy without supervision or act as an
5 occupational therapy assistant with supervision during
6 processing of the license application.

7

8 (d) The board may establish provisions for a limited
9 license to practice occupational therapy under supervision
10 or act as an occupational therapy assistant with
11 supervision to applicants who are waiting to take the
12 national certification examination or who are awaiting
13 scores.

14

15 **33-40-110. Renewal of license; reentry.**

16

17 (a) Any license issued under this act shall be
18 subject to annual renewal as provided by the board, however
19 no late renewal of a license may be granted more than ~~five~~
20 ~~(5) years~~one (1) year after its expiration.

21

22 (f) The board shall establish by rule reentry
23 procedures for the licensure of persons who have previously

1 practiced as an occupational therapist or occupational
2 therapy assistant for not less than one (1) year, but who
3 do not qualify for renewal of their license under
4 subsection (a) of this section. The board's rules may:

5
6 (i) Require completion of continuing education
7 not to exceed the cumulative total requirement for a
8 licensed occupational therapist or occupational therapist
9 assistant for three (3) years;

10
11 (ii) Require completion of a review course
12 approved by the board which shall not be more than thirty
13 (30) days in duration;

14
15 (iii) Require practice under the supervision of
16 a licensed occupational therapist or occupational therapy
17 assistant for a period of not more than two (2) years;

18
19 (iv) For a period of not more than two (2) years
20 or until specified training is received, restrict a person
21 from practicing or practicing without supervision specific
22 areas within the practice of occupational therapy which

1 areas have significantly changed or been added to the
2 practice;

3
4 (v) Establish guidelines for the length of time
5 the requirements stated in paragraphs (i) through (iv) of
6 this subsection are imposed based on the length of time a
7 person has not engaged in the practice of occupational
8 therapy, the person's prior experience, the area of
9 practice in which the person intends to engage and other
10 relevant factors.

11
12 **33-40-111. Foreign trained applicants; applicants**
13 **from other states and territories.**

14
15 (a) Occupational therapists and occupational therapy
16 assistants trained outside of the United States and its
17 possessions shall satisfy the examination requirements of
18 W.S. ~~33-40-106(a)(iv)~~ 33-40-107. The board shall require
19 these applicants to meet the standards established in W.S.
20 ~~33-40-106(a)(i) through (iii)~~ 33-40-106.

21
22 (b) The board shall, to the extent necessary, waive
23 examination, education, and continuing education

1 requirements and grant a license to any applicant who
2 presents proof of current licensure or regulation as an
3 occupational therapist or occupational therapy assistant in
4 another state, the District of Columbia, or territory of
5 the United States whose standards for licensure or
6 regulation include passage of the examination required for
7 licensure under this act and who have not been disciplined
8 in the other jurisdiction for unprofessional conduct or a
9 similar offense. The board may grant licensure to an
10 applicant who has been disciplined for unprofessional
11 conduct if in the board's judgment the unprofessional
12 conduct was sufficiently minor, has been rectified or is
13 sufficiently in the past so as not to present a risk to the
14 welfare or safety of Wyoming patients.

15
16 **33-40-113. Suspension and revocation of license;**
17 **refusal to renew.**

18
19 (a) After the hearing authorized by subsection (b) of
20 this section, the board may deny a license or refuse to
21 renew a license, may suspend or revoke a license, or may
22 impose probationary conditions if the licensee or the
23 applicant for a license has engaged in unprofessional

1 conduct which has endangered or is likely to endanger the
2 health, welfare or safety of the public. ~~For purposes of~~
3 ~~this section, unprofessional conduct includes:~~
4 Unprofessional conduct shall mean the conduct defined in
5 W.S. 33-40-102(a)(vi).

6

7 **33-40-114. Board of occupational therapy practice;**
8 **established; compensation.**

9

10 (a) There is established a board of occupational
11 therapy within the department of administration and
12 information. The board shall consist of five (5) members
13 appointed by the governor, who are residents of Wyoming.
14 Three (3) board members shall be ~~registered~~ occupational
15 therapists who have been engaged in providing occupational
16 therapy services to the public, teaching or research in
17 occupational therapy for at least five (5) years
18 immediately preceding their appointments. One (1) board
19 member shall be ~~a certified~~ an occupational therapy
20 assistant who shall have been engaged in providing
21 occupational therapy services to the public, teaching or
22 research in occupational therapy for at least ~~three (3)~~
23 five (5) years immediately preceding his appointment. A

1 ~~registered~~ An occupational therapist may be appointed to
2 this position if no ~~certified~~ occupational therapy
3 assistant is available and willing to serve. These four (4)
4 members shall at all times be holders of valid licenses
5 under this act. The remaining member shall be a member of
6 the public with an interest in the rights of the consumers
7 of health services.

8
9 (b) ~~By July 1, 1991 the governor shall appoint two~~
10 ~~(2) board members for a term of one (1) year, two (2) board~~
11 ~~members for a term of two (2) years and one (1) for a term~~
12 ~~of three (3) years. Appointments made thereafter~~
13 Appointments to the board of occupational therapy shall be
14 for three (3) year terms. No person shall serve more than
15 two (2) consecutive terms. Terms shall begin on the first
16 day of the fiscal year and end on the last day of the
17 fiscal year or until successors are appointed. ~~, except for~~
18 ~~the first appointed members who shall serve through the~~
19 ~~last fiscal day of the year in which they are appointed.~~
20 Vacancies in the membership of the board shall be filled
21 for the unexpired term by the governor. The governor may
22 remove any board member as provided by W.S. 9-1-202.

23

1 (c) The board shall meet ~~during the first month of~~
2 ~~each fiscal year to select a chairman and for other~~
3 ~~purposes. At least one (1) additional meeting shall be~~
4 ~~held before the end of each fiscal year~~ not less than two
5 (2) times during each fiscal year and shall select a
6 chairman at the first meeting. Other meetings may be
7 convened at the call of the chairman or the written request
8 of any two (2) board members. A majority of the members of
9 the board shall constitute a quorum for all purposes. All
10 meetings of the board shall be governed in accordance with
11 W.S. 16-4-403. In addition the board may hold closed
12 sessions:

13
14 (iii) To consider allegations or investigations
15 of possible unprofessional conduct as defined by W.S.
16 ~~33-40-113~~ 33-40-102(a)(vi).

17
18 **33-40-115. Board of occupational therapy practice;**
19 **powers and duties.**

20
21 (c) The board may delegate its authority to issue
22 temporary and limited licenses pursuant to W.S.
23 ~~33-40-108(c) and limited permits pursuant to W.S. 33-40-105~~

1 33-40-108 to the executive secretary of the board. The
2 board may limit the delegation or set forth any criteria
3 for exercising the delegation as it deems appropriate.
4

5 **Section 2.** W.S. 33-40-102(a)(iii)(A) through (H),
6 33-40-103(b), 33-40-104(a)(iv)(B), 33-40-105,
7 33-40-106(a)(ii) through (iv) and (b)(iii), 33-40-107(a),
8 33-40-108(b), 33-40-110(b) through (e), 33-40-113(a)(i)
9 through (vi) and 33-40-114(c)(i) and (ii) are repealed.

10

11 **Section 3.** This act is effective July 1, 2016.

12

13

(END)