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HOUSE BILL

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO PROFESSIONAL LICENSURE; AMENDING SECTIONS OF THE  
OCCUPATIONAL THERAPY ACT TO MAKE SCOPE OF PRACTICE CHANGES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 61-12A-3 NMSA 1978 (being Laws 1996,  
Chapter 55, Section 3, as amended) is amended to read:

"61-12A-3. DEFINITIONS.--As used in the Occupational  
Therapy Act:

A. "board" means the board of examiners for  
occupational therapy;

B. "censure" means a formal expression of  
disapproval that is publicly announced;

C. "denial of license" means that a person is  
barred from becoming licensed to practice in accordance with  
the provisions of the Occupational Therapy Act either

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1 indefinitely or for a certain period;

2 D. "licensee" means an occupational therapist or  
3 occupational therapy assistant, as appropriate;

4 E. "occupational therapist" means a person who  
5 holds an active license to practice occupational therapy in New  
6 Mexico in accordance with board rules;

7 F. "occupational therapy" means the therapeutic use  
8 of occupations, including everyday life activities with persons  
9 [~~or~~] across the life span, including groups, populations or  
10 organizations, to [participate] enhance or enable  
11 participation, performance or function in roles, [~~and~~  
12 ~~situations~~] habits and routines in home, school, workplace,  
13 community and other settings [~~to promote~~]. Occupational  
14 therapy services are provided for habilitation, rehabilitation  
15 and the promotion of health and wellness [in] to those clients  
16 who have or are at risk for developing an illness, injury,  
17 disease, disorder, condition, impairment, disability, activity  
18 limitation or participation restriction. "Occupational  
19 therapy" includes addressing the physical, cognitive,  
20 psychosocial, [~~sensory~~] sensory-perceptual and other aspects of  
21 performance in a variety of contexts and environments to  
22 support [~~a client's~~] engagement in [~~everyday life activities~~]  
23 occupations that affect physical and mental health, well-being  
24 and quality of life. [~~G.~~] Occupational therapy [~~aide or~~  
25 ~~technician~~] ~~means an unlicensed person who assists in~~

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1 ~~occupational therapy, who works under direct supervision of an~~  
2 ~~occupational therapist or occupational therapy assistant] uses~~  
3 ~~everyday life activities to promote mental health and support~~  
4 ~~functioning in people with or at risk of experiencing a range~~  
5 ~~of mental health disorders, including psychiatric, behavioral,~~  
6 ~~emotional and substance abuse disorders;~~

7 [H.] G. "occupational therapy assistant" means a  
8 person having no less than an associate degree in occupational  
9 therapy and holding an active license to practice occupational  
10 therapy in New Mexico who assists [~~an~~] in the practice of  
11 occupational [~~therapist~~] therapy under the supervision of the  
12 occupational therapist in accordance with board rules;

13 [I.] H. "person" means an individual, association,  
14 partnership, unincorporated organization or corporate body;

15 [J.] I. "probation" means that continued licensure  
16 is subject to fulfillment of specified conditions such as  
17 monitoring, education, supervision or counseling;

18 [K.] J. "reprimand" means a formal expression of  
19 disapproval that is retained in the licensee's file but not  
20 publicly announced;

21 [L.] K. "revocation" means permanent loss of  
22 licensure; and

23 [M.] L. "suspension" means the loss of licensure  
24 for a certain period, after which the person may be required to  
25 apply for reinstatement."

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1 SECTION 2. Section 61-12A-4 NMSA 1978 (being Laws 1996,  
2 Chapter 55, Section 4, as amended) is amended to read:

3 "61-12A-4. OCCUPATIONAL THERAPY SERVICES.--The practice  
4 of occupational therapy [~~services include:~~

5 ~~A. selected strategies to direct the process of~~  
6 ~~interventions, such as:~~

7 ~~(1) establishment, remediation or restoration~~  
8 ~~of a skill or ability that has not yet developed or is~~  
9 ~~impaired;~~

10 ~~(2) compensation, modification or adaptation~~  
11 ~~of activity or environment to enhance performance;~~

12 ~~(3) maintenance and enhancement of~~  
13 ~~capabilities without which performance in everyday life~~  
14 ~~activities would decline;~~

15 ~~(4) health promotion and wellness to enable~~  
16 ~~enhanced performance in everyday life activities; and~~

17 ~~(5) prevention of barriers to performance,~~  
18 ~~including disability prevention] includes the following~~

19 processes and services:

20 [B.] A. evaluation of factors affecting all areas  
21 of occupation, including activities of daily living,  
22 instrumental activities of daily living, rest and sleep,  
23 education, work, productivity, play, leisure and social  
24 participation; including:

25 (1) client factors, including neuromuscular,

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1 sensory, visual, [~~perceptual and~~] mental, cognitive [~~functions~~]  
2 and pain factors and body structures, including cardiovascular,  
3 digestive, integumentary and genitourinary systems and  
4 structures related to movement;

5 (2) habits, routines, roles and behavior  
6 patterns;

7 (3) cultural, physical, environmental, social  
8 and spiritual contexts and activity demands that affect  
9 performance; and

10 (4) performance skills, including motor  
11 process and communication and interaction skills; [~~and~~]

12 B. activity analysis to determine activity demands  
13 of occupations performed;

14 C. design, implementation and modification of  
15 therapeutic interventions, including the following activities  
16 related to selection of intervention strategies to direct the  
17 process of interventions:

18 (1) establishment, remediation or restoration  
19 of a skill or ability that has not yet developed, is impaired  
20 or is in decline;

21 (2) compensation, modification or adaptation  
22 of activity or environment to enhance performance or to prevent  
23 injuries, disorders or other conditions;

24 (3) retention, maintenance and enhancement of  
25 skills and capabilities without which performance in everyday

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1 life activities would decline;

2 (4) promotion of health and wellness,  
3 including the use of self-management strategies to enable or  
4 enhance performance in everyday life activities;

5 (5) prevention of barriers to performance,  
6 including injury and disability prevention; and

7 [~~6.~~] (6) interventions and procedures to  
8 promote or enhance safety and performance in [activities of  
9 daily living, instrumental activities of daily living,  
10 education, work, play, leisure and social participation] areas  
11 of occupation, including:

12 [~~1~~] (a) therapeutic use of  
13 occupations, exercises and activities;

14 [~~2~~] (b) training in self-care, self-  
15 management, health management and maintenance, home management,  
16 [~~and~~] community-work reintegration, school activities and work  
17 performance;

18 [~~3~~] (c) development, remediation or  
19 compensation of [~~physical~~] neuromusculoskeletal, sensory-  
20 perceptual, sensory-integrative and modulation, visual, mental  
21 and cognitive [~~neuromuscular and sensory~~] functions, pain  
22 tolerance and management, developmental skills and behavioral  
23 skills;

24 [~~4~~] (d) therapeutic use of self,  
25 including one's personality, insights, perceptions and

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1 judgments, as part of the therapeutic process;

2 [~~(5)~~] (e) education and training of  
3 persons, including family members, caregivers, groups,  
4 populations and others;

5 [~~(6)~~] (f) care coordination, case  
6 management and transition services;

7 [~~(7)~~] (g) consultative services to  
8 groups, programs, organizations or communities;

9 [~~(8)~~] (h) modification of home, work,  
10 school and community environments and adaptation [~~or~~] of  
11 processes, including the application of ergonomic principles;

12 [~~(9)~~] (i) assessment, design,  
13 fabrication, application, fitting and training in seating and  
14 positioning, assistive technology, adaptive devices and  
15 orthotic devices and training in the use of prosthetic devices;

16 [~~(10)~~] (j) assessment, recommendation  
17 and training in techniques to enhance functional mobility,  
18 including [~~wheelchair~~] management of wheelchairs and other  
19 mobility devices;

20 (k) low-vision rehabilitation;

21 [~~(11)~~] (l) driver rehabilitation and  
22 community mobility;

23 [~~(12)~~] (m) management of feeding, eating  
24 and swallowing; [~~to enable eating and feeding performance; and~~

25 [~~(13)~~] (n) application of physical agent

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1 modalities and use of a range of specific therapeutic  
2 procedures such as wound care management; techniques to enhance  
3 sensory, perceptual and cognitive processing; and manual  
4 therapy techniques to enhance performance skills;

5 (o) facilitating the occupational  
6 performance of groups, populations or organizations; and

7 (p) management of a client's mental  
8 health, functioning and performance; and

9 D. use of means to measure the outcomes and effects  
10 of interventions to reflect the attainment of treatment goals,  
11 including:

12 (1) improved quality of life;

13 (2) the degree of participation;

14 (3) role competence;

15 (4) well-being;

16 (5) improved life function;

17 (6) enhanced performance; and

18 (7) prevention criteria."

19 **SECTION 3.** Section 61-12A-5 NMSA 1978 (being Laws 1996,  
20 Chapter 55, Section 5, as amended) is amended to read:

21 "61-12A-5. SUPERVISION--REQUIRED--DEFINED.--[A.]

22 Occupational therapy shall not be performed by an occupational  
23 therapy assistant [~~occupational therapy aide or technician~~] or  
24 by any person practicing on a provisional permit unless [~~such~~]  
25 the occupational therapy is supervised by an occupational

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1 therapist. The board shall adopt rules defining supervision.  
2 [which definitions may include various categories such as  
3 "close supervision", "routine supervision" and "general  
4 supervision".

5 B. ~~An occupational therapy aide or technician is~~  
6 ~~not a primary service provider of occupational therapy in any~~  
7 ~~practice setting and, therefore, does not provide skilled~~  
8 ~~occupational therapy services. An occupational therapy aide or~~  
9 ~~technician is trained by an occupational therapist or an~~  
10 ~~occupational therapy assistant to perform specifically~~  
11 ~~delegated tasks, and the occupational therapist is responsible~~  
12 ~~for the overall use and actions of the occupational therapy~~  
13 ~~aide or technician. An occupational therapy aide or technician~~  
14 ~~must demonstrate competence to perform the assigned, delegated~~  
15 ~~client and nonclient tasks.]"~~

16 SECTION 4. A new section of the Occupational Therapy Act  
17 is enacted to read:

18 "[NEW MATERIAL] APPLICABILITY TO OTHER HEALTH  
19 PROFESSIONS.--Nothing in the Occupational Therapy Act shall be  
20 construed as limiting the practice of other licensed and  
21 qualified health professionals in their specific disciplines."