

## Attachment A

### AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6506, 6507, 6509, 7901 and 7902 of the Education Law and Chapter 601 of the Laws of 2022.

1. Section 76.11 of the Regulations of the Commissioner of Education is added to read as follows:

#### 76.11 Providing treatment in the practice of occupational therapy without referral

(a) In accordance with subdivision (2) of section 7901 of the Education Law, a licensed occupational therapist may provide a patient with treatment in the practice of occupational therapy without a referral from a physician or nurse practitioner, for 10 visits or 30 days, whichever occurs first, provided that the licensed occupational therapist meets the following requirements:

(1) the licensed occupational therapist has practiced occupational therapy on a full-time basis equivalent to not less than three years prior to beginning such treatment, meaning the licensed occupational therapist has completed at least 4,320 clock hours of occupational therapy practice over a minimum of 36 months anytime prior to beginning such treatment; and

(2) the licensed occupational therapist meets all requirements of subdivision (b) of this section relating to the notice of advice.

(b) Notice of advice. An occupational therapist providing treatment in the practice of occupational therapy without a referral from a physician or nurse practitioner, in accordance with subdivision (2) of section of 7901 of the Education Law and the requirements of this section, shall advise the patient in writing prior to beginning

treatment of the possibility that treatment may not be covered by the patient's health care plan or insurer without a referral from a physician or nurse practitioner and that such treatment may be a covered expense if rendered pursuant to a referral. This notice of advice shall be provided on a form, a copy of which shall be kept on file by the licensed occupational therapist as a patient record. A copy of this notice of advice shall be given to the patient. The notice of advice form shall include the following information:

(1) a statement of such advice and a statement attesting that the patient has read the notice of advice form;

(2) the date treatment will begin;

(3) the patient's name and address;

(4) the patient's signature and date the patient signed the form;

(5) the treating occupational therapist's name and business address; and

(6) the treating occupational therapist's signature and the date the occupational therapist signed the form.