SENATE BILL NO. 34

INTRODUCED BY M. YAKAWICH, J. HINKLE

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING THE USE OF PHYSICAL AGENT MODALITIES BY OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS; REVISING DEFINITIONS; AMENDING SECTIONS 37-24-103 AND 37-24-108, MCA; AND REPEALING SECTIONS 37-24-105 AND 37-24-106, MCA.”

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-24-103, MCA, is amended to read:

"**37-24-103. Definitions.** As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Board" means the board of physical, rehabilitative, and developmental health care professionals provided for in 2-15-1754.

~~(2) "Certified occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under this chapter, who works under the general supervision of an occupational therapist in accordance with the provisions of the national board for certification in occupational therapy, inc., and adopted by the board.~~

~~(3)~~ (2) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

~~(4)~~ (3) "Occupational therapist" means a person licensed to practice occupational therapy under this chapter.

~~(5)~~ (4) "Occupational therapy" means the therapeutic use of purposeful goal-directed activities and interventions to achieve functional outcomes to maximize the independence and the maintenance of health of an individual who is limited by disease or disorders, impairments, activity limitations, or participation restrictions that interfere with the individual's ability to function independently in daily life roles. The practice encompasses evaluation, assessment, treatment, consultation, remediation, and restoration of performance abilities that are

limited due to impairment in biological, physiological, psychological, or neurological processes. Occupational therapy services may be provided individually, in groups, or through social systems. Occupational therapy interventions include but are not limited to:

(a) evaluating, developing, improving, sustaining, or restoring skills in activities of daily living, work or productive activities, including instrumental activities of daily living, and play and leisure activities;

(b) developing perceptual-motor skills and sensory integrative functioning;

(c) developing play skills and leisure capacities and enhancing educational performance skills;

(d) designing, fabricating, or applying orthotic or prosthetic devices, applying and training in the use of assistive technology, and training in the use of orthotic and prosthetic devices;

(e) providing for the development of emotional, motivational, cognitive, psychosocial, or physical components of performance;

(f) providing assessment and evaluation, including the use of skilled observation or the administration and interpretation of standardized or nonstandardized tests and measurements to identify areas for occupational therapy services;

(g) adaptation of task, process, or the environment, as well as teaching of compensatory techniques, in order to enhance performance;

(h) developing feeding and swallowing skills;

(i) enhancing and assessing work performance and work readiness through occupational therapy intervention, including education and instruction, activities to increase and improve general work behavior and skill, job site evaluation, on-the-job training and evaluation, development of work-related activities, and supported employment placement;

(j) providing neuromuscular facilitation and inhibition, including the activation, facilitation, and inhibition of muscle action, both voluntary and involuntary, through the use of appropriate sensory stimulation, with or without mechanical devices, including vibration or brushing, to evoke a desired muscular response;

(k) application of physical agent modalities, as defined in this section, as an adjunct to or in preparation for engagement in purposeful goal-directed activity;

(l) promoting health and wellness;

(m) evaluating and providing intervention in collaboration with the client, family, caregiver, or

others;

(n) educating the client, family, caregiver, or others in carrying out appropriate nonskilled interventions;

(o) consulting with groups, programs, organizations, or communities to provide population-based services; and

(p) use of prescribed topical medications.

~~(6)~~ (5) "Occupational therapy aide" means a person who assists in the practice of occupational therapy under the direct supervision of an occupational therapist or occupational therapy assistant and whose activities require an understanding of occupational therapy but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.

~~(7)~~ (6) "Occupational therapy assistant" means a person who is licensed to assist in the practice of occupational therapy under this chapter and who works under the general supervision of an occupational therapist.

~~(8)~~ (7) "Physical agent modalities" means those modalities that produce a response in soft tissue through the use of light, water, temperature, sound, ~~or~~ electricity, or mechanical devices. Physical agent modalities are characterized as adjunctive methods used in conjunction with or in immediate preparation for patient involvement in purposeful activity. ~~Superficial physical agent modalities include hot packs, cold packs, ice, fluidotherapy, paraffin, water, and other commercially available superficial heating and cooling devices. Use of superficial physical agent modalities is limited to the shoulder, arm, elbow, forearm, wrist, and hand and is subject to the provisions of 37-24-105. Use of sound and electrical physical agent modality devices is limited to the shoulder, arm, elbow, forearm, wrist, and hand and is subject to the provisions of 37-24-106.~~

~~(9)~~ (8) "Purposeful goal-directed activity" means an activity in which the individual is an active, voluntary participant and is directed toward a goal that the individual considers meaningful. Purposeful activities are used to evaluate, facilitate, restore, or maintain individuals' abilities to function within their daily occupations.

~~(10)~~ (9) "Topical medications" means medications applied locally to the skin and includes only medications listed in 37-24-108(2) for which a prescription is required under state or federal law."

NEW SECTION. **Section 2. Use of physical agent modalities.** A person may not use occupational therapy techniques involving physical agent modalities unless the person is:

(1) an occupational therapist; or

(2) an occupational therapy assistant under the direct supervision of an occupational therapist.

Section 3. Section 37-24-108, MCA, is amended to read:

"**37-24-108. Application and administration of topical medications -- prescription, purchasing, and recordkeeping requirements.** (1) A licensed occupational therapist ~~who meets the requirements of 37-24-106~~ may apply or administer topical medications by:

(a) direct application;

(b) iontophoresis, a process in which topical medications are applied through the use of electricity; or

(c) phonophoresis, a process in which topical medications are applied through the use of ultrasound.

(2) A licensed occupational therapist may apply or administer the following topical medications:

(a) bactericidal agents;

(b) debriding agents;

(c) anesthetic agents;

(d) anti-inflammatory agents;

(e) antispasmodic agents; and

(f) adrenocorticosteroids.

(3) (a) Topical medications applied or administered by a licensed occupational therapist must be prescribed on a specific or standing basis by a licensed medical practitioner authorized to order or prescribe topical medications and must be purchased from a pharmacy certified under 37-7-321.

(b) Topical medications dispensed under this section must comply with packaging and labeling guidelines developed by the board of pharmacy under Title 37, chapter 7.

(4) A licensed occupational therapist who applies or administers topical medications shall keep appropriate records with respect to those medications."

NEW SECTION. **Section 4. Repealer.** The following sections of the Montana Code Annotated are repealed:

37-24-105. Use of superficial physical agent modalities.

37-24-106. Use of sound and electrical physical agent modalities.

NEW SECTION. **Section 5. Codification instruction.** [Section 2] is intended to be codified as an integral part of Title 37, chapter 24, part 1, and the provisions of Title 37, chapter 24, part 1, apply to [section 2].

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