

AMENDMENTS TO LB257

Introduced by Hansen, 16.

1 1. Insert the following new sections:

2 **Sec. 3.** Section 38-2501, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 38-2501 Sections 38-2501 to 38-2531 and sections 20 to 23 of this
5 act shall be known and may be cited as the Occupational Therapy Practice
6 Act.

7 **Sec. 4.** Section 38-2503, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 38-2503 For purposes of the Occupational Therapy Practice Act and
10 elsewhere in the Uniform Credentialing Act, unless the context otherwise
11 requires, the definitions found in sections 38-2504 to 38-2514 and
12 sections 20 to 23 of this act apply.

13 **Sec. 5.** Section 38-2506, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 38-2506 Deep thermal agent modalities means therapeutic ultrasound,
16 ~~and~~ phonophoresis, and other commercially available technologies. Deep
17 thermal agent modalities does not include the use of diathermy or lasers.

18 **Sec. 6.** Section 38-2507, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 38-2507 Electrotherapeutic agent modalities means the use of
21 electrotherapeutic currents and waveforms to (1) facilitate physiologic
22 changes in tissues to increase circulation, facilitate tissue healing,
23 and modulate pain, including, but not limited to, high-voltage galvanic
24 stimulation for tissue and wound repair and high-voltage pulsed current,
25 and (2) facilitate neuromuscular or sensory activity to improve muscle
26 strength, reeducate muscle function, or modulate pain response,
27 including, but not limited to, neuromuscular electrical stimulation,

1 functional electrical stimulation, transcutaneous electrical nerve
2 stimulation, and interferential current. neuromuscular electrical
3 stimulation, transcutaneous electrical nerve stimulation, and
4 iontophoresis. Electrotherapeutic agent modalities does not include the
5 use of ultraviolet light.

6 **Sec. 7.** Section 38-2510, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 38-2510 (1) Practice of occupational therapy means the therapeutic
9 use of everyday life occupations with persons, groups, or populations to
10 support occupational performance and participation. Occupational therapy
11 practice includes clinical reasoning and professional judgment to
12 evaluate, analyze, and diagnose occupational challenges and provide
13 occupation-based interventions. Occupational therapy services include
14 habilitation, rehabilitation, and the promotion of physical and mental
15 health and wellness for clients with all levels of ability-related needs.
16 These services are provided to a client who has, or is at risk for,
17 developing an illness, injury, disease, disorder, condition, impairment,
18 disability, activity limitation, or participation restriction. Through
19 the provision of skilled services and engagement in everyday activities,
20 occupational therapy promotes physical and mental health and well-being
21 by supporting occupational performance in a person with, or at risk of
22 experiencing, a range of developmental, physical, and mental health
23 disorders.

24 (2) The practice of occupational therapy includes the following
25 components:

26 (a) Evaluation of factors affecting activities of daily living,
27 instrumental activities of daily living, health management, rest and
28 sleep, education, work, play, leisure, and social participation, and
29 includes environmental and personal factors and occupational and activity
30 demands that affect performance;

31 (b) Performance patterns, including habits, routines, roles, and

1 rituals;

2 (c) Performance skills, including motor skills, process skills, and
3 social interaction skills;

4 (d) Client factors, including body functions and structures, values,
5 and spirituality;

6 (e) Methods or approaches to identify and select intervention,
7 including (i) establishment, remediation, or restoration of a skill or
8 ability that has not yet developed, is impaired, or is in decline, (ii)
9 compensation, modification, or adaptation of occupations, activities, and
10 contexts to improve or enhance performance, (iii) maintenance of
11 capabilities to prevent decline in performance of everyday life
12 occupations, (iv) health promotion and wellness to enable or enhance
13 performance of everyday life activities and quality of life, and (v)
14 prevention of occurrence or emergence of barriers to performance and
15 participation, including injury and disability prevention; and

16 (f) Interventions and procedures to promote or enhance safety and
17 performance in activities of daily living, independent activities of
18 daily living, health management, rest and sleep, education, work, play,
19 leisure, and social participation, and includes:

20 (i) Therapeutic use of occupations and activities;

21 (ii) Training in self-care, self-management, health management, home
22 management, community and work integration, school activities, and work
23 performance;

24 (iii) Identification, development, remediation, or compensation of
25 physical, neuromusculoskeletal, sensory-perceptual, emotional regulation,
26 visual, and mental and cognitive functions, pain tolerance and
27 management, praxis, developmental skills, and behavioral skills;

28 (iv) Education and training of persons, including family members,
29 caregivers, groups, and populations;

30 (v) Care coordination, case management, and transition services;

31 (vi) Consultation services to persons, groups, populations,

1 programs, organizations, and communities;

2 (vii) Virtual interventions;

3 (viii) Modification of contexts and adaptation of processes,
4 including the application of ergonomic principles;

5 (ix) Assessment, design, fabrication, application, fitting, and
6 training in seating and positioning, assistive technology, adaptive
7 devices, and orthotic devices, and training in the use of prosthetic
8 devices;

9 (x) Assessment, recommendation, and training in techniques to
10 enhance functional mobility, including fitting and management of
11 wheelchairs and other mobility devices;

12 (xi) Exercises, including tasks and methods to increase motion,
13 strength, and endurance for occupational participation;

14 (xii) Remediation of, and compensation for, visual deficits,
15 including low vision rehabilitation;

16 (xiii) Driver rehabilitation and community mobility;

17 (xiv) Management of feeding, eating, and swallowing to enable eating
18 and feeding performance;

19 (xv) Application of physical agent, instrument-assisted, and
20 mechanical modalities and the use of a range of specific therapeutic
21 procedures and techniques to enhance sensory, motor, perceptual, and
22 cognitive processing, and manual therapy techniques to enhance
23 performance skills;

24 (xvi) Facilitating the occupational participation of persons,
25 groups, or populations through modification of contexts and adaptation of
26 processes;

27 (xvii) Efforts directed toward promoting occupational justice and
28 empowering clients to seek and obtain resources to fully participate in
29 everyday life occupations;

30 (xviii) Group interventions; and

31 (xix) Addressing wound care.

1 ~~(1) Occupational therapy means the use of purposeful activity with~~
2 ~~individuals who are limited by physical injury or illness, psychosocial~~
3 ~~dysfunction, developmental or learning disabilities, or the aging process~~
4 ~~in order to maximize independent function, prevent further disability,~~
5 ~~and achieve and maintain health and productivity.~~

6 ~~(2) Occupational therapy encompasses evaluation, treatment, and~~
7 ~~consultation and may include (a) remediation or restoration of~~
8 ~~performance abilities that are limited due to impairment in biological,~~
9 ~~physiological, psychological, or neurological processes, (b) adaptation~~
10 ~~of task, process, or the environment, or the teaching of compensatory~~
11 ~~techniques, in order to enhance performance, (c) disability prevention~~
12 ~~methods and techniques which facilitate the development or safe~~
13 ~~application of performance skills, and (d) health promotion strategies~~
14 ~~and practices which enhance performance abilities.~~

15 (3) Occupational therapy does not include the use of joint
16 manipulation, grade five mobilization or manipulation, thrust joint
17 manipulation, high-velocity or low-amplitude thrust, or any other
18 procedure intended to result in joint cavitation. Joint manipulation
19 commences where grades one through four mobilization ends.

20 **Sec. 8.** Section 38-2511, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 38-2511 Occupational therapy aide means a person who is not licensed
23 by the board and who provides supportive services to occupational
24 therapists and occupational therapy assistants and functions only under
25 the guidance, responsibility, and supervision of an occupational
26 therapist or an occupational therapy assistant. An aide shall not provide
27 occupational therapy services and shall demonstrate competence before
28 performing assigned and delegated client-related and non-client-related
29 tasks. An aide includes a rehabilitation aide, a rehabilitation
30 technician, and other designations of nonlicensed, supportive personnel.

31 ~~Occupational therapy aide means a person who is not licensed under~~

1 ~~the Occupational Therapy Practice Act and who provides supportive~~
2 ~~services to occupational therapists and occupational therapy assistants.~~

3 **Sec. 9.** Section 38-2512, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 38-2512 Occupational therapy assistant means a person licensed to
6 assist in the practice of occupational therapy under the Occupational
7 Therapy Practice Act and who works under the appropriate supervision of,
8 and in collaboration with, an occupational therapist. ~~holding a current~~
9 license to assist in the practice of occupational therapy.

10 **Sec. 10.** Section 38-2513, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 38-2513 Physical agent and instrument-assisted modalities means
13 modalities that produce a biophysiological response through the use of
14 water, temperature, sound, electricity, or mechanical devices.

15 **Sec. 11.** Section 38-2514, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 38-2514 Superficial thermal agent modalities means hydrotherapy,
18 whirlpool, cryotherapy, fluidotherapy, hot packs, paraffin, water,
19 infrared, and other commercially available superficial heating and
20 cooling technologies. ~~hot packs, cold packs, ice, fluidotherapy,~~
21 paraffin, water, and other commercially available superficial heating and
22 cooling technologies.

23 **Sec. 12.** Section 38-2516, Revised Statutes Cumulative Supplement,
24 2024, is amended to read:

25 38-2516 (1) No person may represent himself or herself to be a
26 licensed occupational therapist or occupational therapy assistant unless
27 the person is licensed in accordance with the Occupational Therapy
28 Practice Act or has a compact privilege to practice in accordance with
29 the Occupational Therapy Practice Interstate Compact.

30 (2) Nothing in the Occupational Therapy Practice Act shall be
31 construed to prevent:

1 (a) Any person licensed in this state pursuant to the Uniform
2 Credentialing Act from engaging in the profession or occupation for which
3 he or she is licensed;

4 (b) The activities and services of any person employed as an
5 occupational therapist or occupational therapy assistant who serves in
6 the armed forces of the United States or the United States Public Health
7 Service or who is employed by the United States Department of Veterans
8 Affairs or other federal agencies, if their practice is limited to that
9 service or employment;

10 (c) The activities and services of any person pursuing an accredited
11 course of study leading to a degree or certificate in occupational
12 therapy if such activities and services constitute a part of a supervised
13 course of study and if such a person is designated by a title which
14 clearly indicates his or her status as a student or trainee;

15 (d) The activities and services of any person fulfilling the
16 supervised fieldwork experience requirements of section ~~sections 38-2518~~
17 ~~and 38-2519~~ if such activities and services constitute a part of the
18 experience necessary to meet the requirements of such section ~~sections~~;
19 or

20 (e) ~~A qualified member~~ Qualified members of another profession ~~other~~
21 ~~professions~~ or occupation ~~occupations~~, including, but not limited to, a
22 recreation specialist ~~specialists~~ or therapist ~~therapists~~, a special
23 education teacher ~~teachers~~, an independent living specialist ~~specialists~~,
24 a work adjustment trainer ~~trainers~~, a caseworker, or a person
25 ~~caseworkers, and persons pursuing a course~~ courses of study leading to a
26 degree or certification in such fields, from doing work similar to
27 occupational therapy which is consistent with the member's ~~their~~ training
28 if such member does ~~they do~~ not represent himself or herself ~~themselves~~
29 by any title or description to be an occupational therapist or
30 occupational therapy assistant ~~therapists~~.

31 **Sec. 13.** Section 38-2517, Revised Statutes Cumulative Supplement,

1 2024, is amended to read:

2 38-2517 (1) ~~A~~ Any person who has applied to take the examination
3 under section 38-2518 or 38-2519 and who has completed the education and
4 experience requirements of the Occupational Therapy Practice Act may be
5 granted a temporary license to practice as an occupational therapist or
6 an occupational therapy assistant. A temporary license shall allow the
7 person to practice only in association with an ~~a licensed~~ occupational
8 therapist, ~~and shall be valid until the date on which the results of the~~
9 ~~next licensure examination are available to the department.~~

10 (2) A temporary license expires the earlier of: (a) The date the
11 person holding the temporary license is issued a permanent license; (b)
12 the date the board denies a person's license application; (c) one hundred
13 eighty days after the date the temporary license is issued; or (d) the
14 date a person is notified of a failure of the licensure examination. The
15 temporary license shall not be renewed if the applicant has failed the
16 examination. The temporary license may be extended by the department,
17 with the recommendation of the board.

18 (3) In no case may a temporary license be extended for a period
19 greater than ~~beyond~~ one year after the date of issuance.

20 (4) ~~(2)~~ This section does not apply to a temporary license issued as
21 provided in section 38-129.01.

22 **Sec. 14.** Section 38-2518, Revised Statutes Cumulative Supplement,
23 2024, is amended to read:

24 38-2518 (1) An applicant applying for a license as an occupational
25 therapist shall show to the satisfaction of the department that the
26 applicant ~~he or she~~:

27 (a) Has successfully completed the academic requirements of an
28 educational program in occupational therapy recognized by the department
29 and accredited by a nationally recognized accrediting body ~~medical~~
30 ~~association or nationally recognized occupational therapy association;~~
31 and

1 ~~(b) Has successfully completed a period of supervised fieldwork~~
2 ~~experience at an educational institution approved by the department and~~
3 ~~where the applicant's academic work was completed or which is part of a~~
4 ~~training program approved by such educational institution. A minimum of~~
5 ~~six months of supervised fieldwork experience shall be required for an~~
6 ~~occupational therapist; and~~

7 ~~(b) (c)~~ Has passed an examination as provided in section 38-2520.

8 (2) ~~If~~ In the case of an applicant who has been trained as an
9 occupational therapist in a foreign country, the applicant shall:

10 (a) Present documentation of completion of an educational program in
11 occupational therapy that is substantially equivalent to an approved
12 program accredited by the Accreditation Council for Occupational Therapy
13 Education or by an equivalent accrediting body agency as determined by
14 the board;

15 (b) Present proof of proficiency in the English language; and

16 (c) Pass ~~Have passed~~ an examination as provided in section 38-2520.

17 (3) Residency in this state shall not be a requirement of licensure.
18 A corporation, partnership, limited liability company, or association
19 shall not be licensed as an occupational therapist pursuant to the
20 Occupational Therapy Practice Act.

21 **Sec. 15.** Section 38-2520, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 38-2520 ~~(1)~~ Each applicant for licensure under ~~pursuant to~~ the
24 Occupational Therapy Practice Act shall take an ~~be examined by a written~~
25 examination which tests the applicant's ~~his or her~~ knowledge of the basic
26 and clinical sciences relating to occupational therapy and occupational
27 therapy theory and practice including, but not limited to, professional
28 skills and judgment in the utilization of occupational therapy techniques
29 and methods and such other subjects as identified by the body
30 administering the national licensure examination. Each applicant shall
31 follow the rules as outlined by such body and meet the minimum

1 requirements for the examination. Results of the examination shall be
2 sent to the board for verification of entry-level competency. as the
3 board may deem useful to determine the applicant's fitness to practice.
4 The board shall approve the examination and establish standards for
5 acceptable performance. The board may choose a nationally standardized
6 occupational therapist and occupational therapy assistant entry-level
7 examination.

8 (2) Applicants for licensure shall be examined at a time and place
9 and under such supervision as the board may determine.

10 **Sec. 16.** Section 38-2526, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 38-2526 (1) An occupational therapist may perform any services
13 identified in section 38-2510 for which the occupational therapist is
14 competent to perform based on the occupational therapist's entry-level
15 training or continued professional development. An occupational therapist
16 may pursue specialization, training, or professional development in a
17 specific modality, procedure, or technique. It is the responsibility of
18 the practitioner to be proficient and document proficiency in the
19 specific modality of practice.

20 (2) An occupational therapist is qualified to apply physical agent
21 and instrument-assisted modalities pursuant to subsection (1) of section
22 38-2530.

23 (3) An occupational therapist may complete insertion and removal of
24 cannulas for oxygen and adjustment of the rate of flow based on a
25 physician order.

26 (4) An occupational therapist shall not independently diagnose a
27 medical condition or disease.

28 An occupational therapist may perform the following services:

29 (1) Evaluate, develop, improve, sustain, or restore skills in
30 activities of daily living, work activities, or productive activities,
31 including instrumental activities of daily living, and play and leisure

1 activities;

2 ~~(2) Evaluate, develop, remediate, or restore sensorimotor,~~
3 ~~cognitive, or psychosocial components of performance;~~

4 ~~(3) Design, fabricate, apply, or train in the use of assistive~~
5 ~~technology or orthotic devices and train in the use of prosthetic~~
6 ~~devices;~~

7 ~~(4) Adapt environments and processes, including the application of~~
8 ~~ergonomic principles, to enhance performance and safety in daily life~~
9 ~~roles;~~

10 ~~(5) If certified pursuant to section 38-2530, apply physical agent~~
11 ~~modalities as an adjunct to or in preparation for engagement in~~
12 ~~occupations when applied by a practitioner who has documented evidence of~~
13 ~~possessing the theoretical background and technical skills for safe and~~
14 ~~competent use;~~

15 ~~(6) Evaluate and provide intervention in collaboration with the~~
16 ~~client, family, caregiver, or others;~~

17 ~~(7) Educate the client, family, caregiver, or others in carrying out~~
18 ~~appropriate nonskilled interventions; and~~

19 ~~(8) Consult with groups, programs, organizations, or communities to~~
20 ~~provide population-based services.~~

21 **Sec. 17.** Section 38-2527, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 38-2527 An occupational therapy assistant may deliver occupational
24 therapy services enumerated in section 38-2510 ~~38-2526~~ in collaboration
25 with and under the supervision of an occupational therapist.

26 **Sec. 18.** Section 38-2530, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 38-2530 ~~(1) In order to apply physical agent modalities, an~~
29 ~~occupational therapist shall be certified pursuant to this section.~~

30 (1)(a) If an occupational therapist's occupational therapy
31 educational program does not include education in superficial thermal,

1 deep thermal, electrotherapeutic, and mechanical devices or the
2 occupational therapist is not certified by the Hand Therapy Certification
3 Commission or other equivalent body recognized by the board, the
4 occupational therapist shall request approval from the board to practice
5 physical agent and instrument-assisted modalities.

6 (b) An occupational therapist may perform dry needling only in
7 accordance with the level of education and training successfully
8 completed. Education and training shall be approved by the board and
9 include clinical instruction and application on the performance of dry
10 needling.

11 (c) An occupational therapist may not use diathermy.

12 (2) The department shall issue a certificate to an occupational
13 therapist to administer a physical agent and instrument-assisted modality
14 if the occupational therapist:

15 (a) Has successfully completed a training course approved by the
16 board and passed an examination approved by the board on the physical
17 agent and instrument-assisted modality;

18 (b) Is certified as a hand therapist by the Hand Therapy
19 Certification Commission or other equivalent body recognized by the
20 board;

21 (c) Has a minimum of five years of experience in the use of physical
22 agent and instrument-assisted modalities and has passed an examination
23 approved by the board on physical agent and instrument-assisted
24 modalities; or

25 (d) Has completed education during a basic educational program which
26 included demonstration of competencies for application of physical agent
27 and instrument-assisted modalities.

28 (3) The department shall issue a certificate for an occupational
29 therapist to utilize dry needling if the occupational therapist has
30 successfully completed a board-approved training course to administer dry
31 needling.

1 (4) An occupational therapist shall not delegate evaluation,
2 reevaluation, treatment planning, and treatment goals for physical agent
3 and instrument-assisted modalities to an occupational therapy assistant.

4 (5)(a) An occupational therapy assistant may administer a physical
5 agent modality if the occupational therapy assistant (i) has successfully
6 completed a training course approved by the board and passed an
7 examination approved by the board on the physical agent modality and (ii)
8 is appropriately supervised by an occupational therapist who is approved
9 to administer physical agent modalities.

10 (b) An occupational therapy assistant shall not complete evaluation,
11 reevaluation, treatment planning, or treatment goal setting related to
12 physical agent modality use.

13 (c) An occupational therapy assistant may not use the instrument-
14 assisted modality of dry needling or diathermy.

15 ~~The department shall issue a certificate to an occupational~~
16 ~~therapist to administer a physical agent modality if the occupational~~
17 ~~therapist:~~

18 ~~(a) Has successfully completed a training course approved by the~~
19 ~~board and passed an examination approved by the board on the physical~~
20 ~~agent modality;~~

21 ~~(b) Is certified as a hand therapist by the Hand Therapy~~
22 ~~Certification Commission or other equivalent entity recognized by the~~
23 ~~board;~~

24 ~~(c) Has a minimum of five years of experience in the use of the~~
25 ~~physical agent modality and has passed an examination approved by the~~
26 ~~board on the physical agent modality; or~~

27 ~~(d) Has completed education during a basic educational program which~~
28 ~~included demonstration of competencies for application of the physical~~
29 ~~agent modality.~~

30 (6) (2) The department shall issue a certificate to authorize an
31 occupational therapy assistant to set up and implement treatment using

1 superficial thermal agent modalities, deep thermal agent modalities,
2 electrotherapeutic modalities, and mechanical devices if the occupational
3 therapy assistant has successfully completed a training course approved
4 by the board and passed an examination approved by the board. Such set up
5 and implementation shall only be done under the onsite supervision of an
6 occupational therapist certified to administer such modalities
7 ~~superficial thermal agent modalities.~~

8 ~~(3) An occupational therapist shall not delegate evaluation,~~
9 ~~reevaluation, treatment planning, and treatment goals for physical agent~~
10 ~~modalities to an occupational therapy assistant.~~

11 **Sec. 19.** Section 38-2531, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 38-2531 (1) The board shall adopt and promulgate rules and
14 regulations regarding role delineation for occupational therapy
15 assistants and continuing competency requirements. Continuing education
16 is sufficient to meet continuing competency requirements. Such
17 requirements may also include, but not be limited to, one or more of the
18 continuing competency activities listed in section 38-145 which a
19 licensed person may select as an alternative to continuing education.

20 (2) The board may adopt and promulgate rules and regulations
21 governing the training courses for an occupational therapist to be
22 certified to administer a physical agent and instrument-assisted
23 modalities ~~modality~~. The board may adopt and promulgate rules and
24 regulations governing the training course for an occupational therapy
25 assistant to be certified to set up and implement superficial thermal
26 agent modalities. In adopting such rules and regulations, the board shall
27 give consideration to the levels of training and experience which are
28 required, in the opinion of the board, to protect the public health,
29 safety, and welfare and to insure, to the greatest extent possible, the
30 efficient, adequate, and safe practice of occupational therapy. Such
31 rules and regulations shall include the approval of examinations and the

1 passing score for such examinations for certification.

2 **Sec. 20.** Electromagnetic modality means the use of electromagnetic
3 waves, including radio waves, microwaves, and light waves, to transport
4 electrical and magnetic energy through space to effect changes in body
5 structures.

6 **Sec. 21.** Instrument-assisted modality means the therapeutic use of
7 an instrument or tool that is manually applied by a trained practitioner
8 to target specific tissues including skin, fascia, and other connective
9 tissues or muscle.

10 **Sec. 22.** Mechanical modality means the therapeutic use of a
11 mechanical device to apply force, such as compression, distraction,
12 vibration, or controlled mobilization, to modify biomechanical properties
13 and functions of tissues.

14 **Sec. 23.** Supervision means a collaborative process for responsible,
15 periodic review and inspection of all aspects of occupational therapy
16 services where (1) the occupational therapist is responsible for
17 occupational therapy services provided by an occupational therapy
18 assistant or an occupational therapy aide, and (2) an occupational
19 therapy assistant is responsible for the occupational therapy services
20 provided by the assistant. The goal of supervision is to ensure the safe
21 and effective delivery of occupational therapy services.

22 **Sec. 24.** Original sections 38-2501, 38-2503, 38-2506, 38-2507,
23 38-2510, 38-2511, 38-2512, 38-2513, 38-2514, 38-2520, 38-2526, 38-2527,
24 38-2530, and 38-2531, Reissue Revised Statutes of Nebraska, and sections
25 38-2516, 38-2517, and 38-2518, Revised Statutes Cumulative Supplement,
26 2024, are repealed.

27 2. Renumber the remaining section and correct the repealer
28 accordingly.