

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 257

FINAL READING

Introduced by Quick, 35; Conrad, 46.

Read first time January 14, 2025

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to occupational credentials; to amend sections
2 38-2501, 38-2503, 38-2506, 38-2507, 38-2510, 38-2511, 38-2512,
3 38-2513, 38-2514, 38-2520, 38-2526, 38-2527, 38-2530, 38-2531, and
4 71-1913, Reissue Revised Statutes of Nebraska, and sections 38-2125,
5 38-2130, 38-2516, 38-2517, 38-2518, 71-1911.03, and 71-1912, Revised
6 Statutes Cumulative Supplement, 2024; to provide for credentials for
7 marriage and family therapists based on licensure in another
8 jurisdiction; to change licensure and scope of practice provisions
9 for occupational therapy; to change and provide requirements for
10 licensees and inspectors under the Child Care Licensing Act relating
11 to liability insurance; to define and redefine terms; to harmonize
12 provisions; and to repeal the original sections.
13 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 38-2125, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 38-2125 (1) Except as otherwise provided in subsection (3) of this
4 section, the ~~The~~ department, with the recommendation of the board, may
5 issue a license based on licensure in another jurisdiction to an
6 individual who:

7 (a) Meets the licensure requirements of the Mental Health Practice
8 Act or substantially equivalent requirements as determined by the
9 department, with the recommendation of the board; or

10 (b) Has been in active practice in the appropriate discipline for at
11 least five years following initial licensure or certification in another
12 jurisdiction and has passed the Nebraska jurisprudence examination.

13 (2) The department may issue a license based on a privilege to
14 practice in Nebraska under the Licensed Professional Counselors
15 Interstate Compact as provided in section 5 of such compact.

16 (3) The department, with the recommendation of the board, shall,
17 based on licensure in another jurisdiction, issue a mental health
18 practitioner license or an independent mental health practitioner license
19 to a marriage and family therapist who:

20 (a) Has a valid, independent, and unrestricted license as a marriage
21 and family therapist in another state or territory that is in good
22 standing with such state or territory;

23 (b) Completes an application and pays all applicable fees; and

24 (c) Has passed the Nebraska jurisprudence examination.

25 (4) ~~(3)~~ An applicant for a license who is a military spouse may
26 apply for a temporary license as provided in section 38-129.01.

27 **Sec. 2.** Section 38-2130, Revised Statutes Cumulative Supplement,
28 2024, is amended to read:

29 38-2130 (1) The department, with the recommendation of the board,
30 may issue a certificate based on licensure in another jurisdiction to
31 represent oneself as a certified marriage and family therapist, a

1 certified professional counselor, a social worker, or a certified art
2 therapist to an individual who meets the requirements of the Mental
3 Health Practice Act relating to ~~marriage and family therapy~~, professional
4 counseling, social work, or art therapy, as appropriate, or substantially
5 equivalent requirements as determined by the department, with the
6 recommendation of the board.

7 (2) The department, with the recommendation of the board, shall
8 issue a certificate to a marriage and family therapist based on licensure
9 in another jurisdiction to an individual who:

10 (a) Has a valid, independent, and unrestricted license as a marriage
11 and family therapist in another state or territory that is in good
12 standing with such state or territory;

13 (b) Completes an application and pays all applicable fees; and

14 (c) Has passed the Nebraska jurisprudence examination.

15 (3) An applicant for a certificate who is a military spouse may
16 apply for a temporary certificate as provided in section 38-129.01.

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

19 38-2501 Sections 38-2501 to 38-2531 and sections 20 to 23 of this
20 act shall be known and may be cited as the Occupational Therapy Practice
21 Act.

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

24 38-2503 For purposes of the Occupational Therapy Practice Act and
25 elsewhere in the Uniform Credentialing Act, unless the context otherwise
26 requires, the definitions found in sections 38-2504 to 38-2514 and
27 sections 20 to 23 of this act apply.

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

30 38-2506 Deep thermal agent modalities means therapeutic ultrasound,
31 and phonophoresis, and other commercially available technologies. Deep

1 thermal agent modalities does not include the use of diathermy or lasers.

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

4 38-2507 Electrotherapeutic agent modalities means the use of
5 electrotherapeutic currents and waveforms to (1) facilitate physiologic
6 changes in tissues to increase circulation, facilitate tissue healing,
7 and modulate pain, including, but not limited to, high-voltage galvanic
8 stimulation for tissue and wound repair and high-voltage pulsed current,
9 and (2) facilitate neuromuscular or sensory activity to improve muscle
10 strength, reeducate muscle function, or modulate pain response,
11 including, but not limited to, neuromuscular electrical stimulation,
12 functional electrical stimulation, transcutaneous electrical nerve
13 stimulation, and interferential current. ~~neuromuscular electrical~~
14 stimulation, ~~transcutaneous electrical nerve stimulation, and~~
15 iontophoresis. ~~Electrotherapeutic agent modalities does not include the~~
16 use of ultraviolet light.

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

19 38-2510 (1) Practice of occupational therapy means the therapeutic
20 use of everyday life occupations with persons, groups, or populations to
21 support occupational performance and participation. Occupational therapy
22 practice includes clinical reasoning and professional judgment to
23 evaluate, analyze, and diagnose occupational challenges and provide
24 occupation-based interventions. Occupational therapy services include
25 habilitation, rehabilitation, and the promotion of physical and mental
26 health and wellness for clients with all levels of ability-related needs.
27 These services are provided to a client who has, or is at risk for,
28 developing an illness, injury, disease, disorder, condition, impairment,
29 disability, activity limitation, or participation restriction. Through
30 the provision of skilled services and engagement in everyday activities,
31 occupational therapy promotes physical and mental health and well-being

1 by supporting occupational performance in a person with, or at risk of
2 experiencing, a range of developmental, physical, and mental health
3 disorders.

4 (2) The practice of occupational therapy includes the following
5 components:

6 (a) Evaluation of factors affecting activities of daily living,
7 instrumental activities of daily living, health management, rest and
8 sleep, education, work, play, leisure, and social participation, and
9 includes environmental and personal factors and occupational and activity
10 demands that affect performance;

11 (b) Performance patterns, including habits, routines, roles, and
12 rituals;

13 (c) Performance skills, including motor skills, process skills, and
14 social interaction skills;

15 (d) Client factors, including body functions and structures, values,
16 and spirituality;

17 (e) Methods or approaches to identify and select intervention,
18 including (i) establishment, remediation, or restoration of a skill or
19 ability that has not yet developed, is impaired, or is in decline, (ii)
20 compensation, modification, or adaptation of occupations, activities, and
21 contexts to improve or enhance performance, (iii) maintenance of
22 capabilities to prevent decline in performance of everyday life
23 occupations, (iv) health promotion and wellness to enable or enhance
24 performance of everyday life activities and quality of life, and (v)
25 prevention of occurrence or emergence of barriers to performance and
26 participation, including injury and disability prevention; and

27 (f) Interventions and procedures to promote or enhance safety and
28 performance in activities of daily living, independent activities of
29 daily living, health management, rest and sleep, education, work, play,
30 leisure, and social participation, and includes:

31 (i) Therapeutic use of occupations and activities;

1 (ii) Training in self-care, self-management, health management, home
2 management, community and work integration, school activities, and work
3 performance;

4 (iii) Identification, development, remediation, or compensation of
5 physical, neuromusculoskeletal, sensory-perceptual, emotional regulation,
6 visual, and mental and cognitive functions, pain tolerance and
7 management, praxis, developmental skills, and behavioral skills;

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

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

11 (vi) Consultation services to persons, groups, populations,
12 programs, organizations, and communities;

13 (vii) Virtual interventions;

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

16 (ix) Assessment, design, fabrication, application, fitting, and
17 training in seating and positioning, assistive technology, adaptive
18 devices, and orthotic devices, and training in the use of prosthetic
19 devices;

20 (x) Assessment, recommendation, and training in techniques to
21 enhance functional mobility, including fitting and management of
22 wheelchairs and other mobility devices;

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

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

27 (xiii) Driver rehabilitation and community mobility;

28 (xiv) Management of feeding, eating, and swallowing to enable eating
29 and feeding performance;

30 (xv) Application of physical agent, instrument-assisted, and
31 mechanical modalities and the use of a range of specific therapeutic

1 procedures and techniques to enhance sensory, motor, perceptual, and
2 cognitive processing, and manual therapy techniques to enhance
3 performance skills;

4 (xvi) Facilitating the occupational participation of persons,
5 groups, or populations through modification of contexts and adaptation of
6 processes;

7 (xvii) Efforts directed toward promoting occupational justice and
8 empowering clients to seek and obtain resources to fully participate in
9 everyday life occupations;

10 (xviii) Group interventions; and

11 (xix) Addressing wound care.

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

17 ~~(2) Occupational therapy encompasses evaluation, treatment, and~~
18 ~~consultation and may include (a) remediation or restoration of~~
19 ~~performance abilities that are limited due to impairment in biological,~~
20 ~~physiological, psychological, or neurological processes, (b) adaptation~~
21 ~~of task, process, or the environment, or the teaching of compensatory~~
22 ~~techniques, in order to enhance performance, (c) disability prevention~~
23 ~~methods and techniques which facilitate the development or safe~~
24 ~~application of performance skills, and (d) health promotion strategies~~
25 ~~and practices which enhance performance abilities.~~

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

31 **Sec. 8.** Section 38-2511, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 38-2511 Occupational therapy aide means a person who is not licensed
3 by the board and who provides supportive services to occupational
4 therapists and occupational therapy assistants and functions only under
5 the guidance, responsibility, and supervision of an occupational
6 therapist or an occupational therapy assistant. An aide shall not provide
7 occupational therapy services and shall demonstrate competence before
8 performing assigned and delegated client-related and non-client-related
9 tasks. An aide includes a rehabilitation aide, a rehabilitation
10 technician, and other designations of nonlicensed, supportive personnel.

11 ~~Occupational therapy aide means a person who is not licensed under~~
12 ~~the Occupational Therapy Practice Act and who provides supportive~~
13 ~~services to occupational therapists and occupational therapy assistants.~~

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

16 38-2512 Occupational therapy assistant means a person licensed to
17 assist in the practice of occupational therapy under the Occupational
18 Therapy Practice Act and who works under the appropriate supervision of,
19 and in collaboration with, an occupational therapist. holding a current
20 license to assist in the practice of occupational therapy.

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

23 38-2513 Physical agent and instrument-assisted modalities means
24 modalities that produce a biophysiological response through the use of
25 water, temperature, sound, electricity, or mechanical devices.

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

28 38-2514 Superficial thermal agent modalities means hydrotherapy,
29 whirlpool, cryotherapy, fluidotherapy, hot packs, paraffin, water,
30 infrared, and other commercially available superficial heating and
31 cooling technologies. hot packs, cold packs, ice, fluidotherapy,

1 ~~paraffin, water, and other commercially available superficial heating and~~
2 ~~cooling technologies.~~

3 **Sec. 12.** Section 38-2516, Revised Statutes Cumulative Supplement,
4 2024, is amended to read:

5 38-2516 (1) No person may represent himself or herself to be a
6 licensed occupational therapist or occupational therapy assistant unless
7 the person is licensed in accordance with the Occupational Therapy
8 Practice Act or has a compact privilege to practice in accordance with
9 the Occupational Therapy Practice Interstate Compact.

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

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

15 (b) The activities and services of any person employed as an
16 occupational therapist or occupational therapy assistant who serves in
17 the armed forces of the United States or the United States Public Health
18 Service or who is employed by the United States Department of Veterans
19 Affairs or other federal agencies, if their practice is limited to that
20 service or employment;

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

26 (d) The activities and services of any person fulfilling the
27 supervised fieldwork experience requirements of section ~~sections 38-2518~~
28 ~~and 38-2519~~ if such activities and services constitute a part of the
29 experience necessary to meet the requirements of such section ~~sections~~;
30 or

31 (e) A qualified member ~~Qualified members~~ of another profession ~~other~~

1 ~~professions or occupation~~ occupations, including, but not limited to, a
2 recreation ~~specialist~~ specialists or ~~therapist~~ therapists, a special
3 education ~~teacher~~ teachers, ~~an~~ independent living ~~specialist~~ specialists,
4 a work adjustment ~~trainer~~ trainers, a caseworker, or a person
5 caseworkers, and persons pursuing a ~~course~~ courses of study leading to a
6 degree or certification in such fields, from doing work similar to
7 occupational therapy which is consistent with ~~the member's~~ their training
8 if ~~such member does~~ they do not represent ~~himself or herself~~ themselves
9 by any title or description to be ~~an occupational~~ ~~therapist~~ or
10 ~~occupational therapy assistant~~ therapists.

11 **Sec. 13.** Section 38-2517, Revised Statutes Cumulative Supplement,
12 2024, is amended to read:

13 38-2517 (1) ~~A~~ Any person who has applied to take the examination
14 under section 38-2518 or 38-2519 and who has completed the education and
15 experience requirements of the Occupational Therapy Practice Act may be
16 granted a temporary license to practice as an occupational therapist or
17 an occupational therapy assistant. A temporary license shall allow the
18 person to practice only in association with ~~an~~ a licensed occupational
19 therapist, and shall be valid until the date on which the results of the
20 next licensure examination are available to the department.

21 (2) A temporary license expires the earlier of: (a) The date the
22 person holding the temporary license is issued a permanent license; (b)
23 the date the board denies a person's license application; (c) one hundred
24 eighty days after the date the temporary license is issued; or (d) the
25 date a person is notified of a failure of the licensure examination. The
26 temporary license shall not be renewed if the applicant has failed the
27 examination. The temporary license may be extended by the department,
28 with the recommendation of the board.

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

31 (4) (2) This section does not apply to a temporary license issued as

1 provided in section 38-129.01.

2 **Sec. 14.** Section 38-2518, Revised Statutes Cumulative Supplement,
3 2024, is amended to read:

4 38-2518 (1) An applicant applying for a license as an occupational
5 therapist shall show to the satisfaction of the department that the
6 applicant ~~he or she~~:

7 (a) Has successfully completed the academic requirements of an
8 educational program in occupational therapy recognized by the department
9 and accredited by a nationally recognized accrediting body ~~medical~~
10 ~~association or nationally recognized occupational therapy association;~~
11 and

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

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

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

21 (a) Present documentation of completion of an educational program in
22 occupational therapy that is substantially equivalent to an approved
23 program accredited by the Accreditation Council for Occupational Therapy
24 Education or by an equivalent accrediting body ~~agency~~ as determined by
25 the board;

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

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

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

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

3 38-2520 ~~(1) Each applicant for licensure under pursuant to the~~
4 Occupational Therapy Practice Act shall take an ~~be examined by a written~~
5 examination which tests the applicant's ~~his or her~~ knowledge of the basic
6 and clinical sciences relating to occupational therapy and occupational
7 therapy theory and practice including, but not limited to, professional
8 skills and judgment in the utilization of occupational therapy techniques
9 and methods and such other subjects as identified by the body
10 administering the national licensure examination. Each applicant shall
11 follow the rules as outlined by such body and meet the minimum
12 requirements for the examination. Results of the examination shall be
13 sent to the board for verification of entry-level competency. ~~as the~~
14 ~~board may deem useful to determine the applicant's fitness to practice.~~
15 ~~The board shall approve the examination and establish standards for~~
16 ~~acceptable performance. The board may choose a nationally standardized~~
17 ~~occupational therapist and occupational therapy assistant entry-level~~
18 ~~examination.~~

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

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

23 38-2526 (1) An occupational therapist may perform any services
24 identified in section 38-2510 for which the occupational therapist is
25 competent to perform based on the occupational therapist's entry-level
26 training or continued professional development. An occupational therapist
27 may pursue specialization, training, or professional development in a
28 specific modality, procedure, or technique. It is the responsibility of
29 the practitioner to be proficient and document proficiency in the
30 specific modality of practice.

31 (2) An occupational therapist is qualified to apply physical agent

1 and instrument-assisted modalities pursuant to subsection (1) of section
2 38-2530.

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

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

8 ~~An occupational therapist may perform the following services:~~

9 ~~(1) Evaluate, develop, improve, sustain, or restore skills in~~
10 ~~activities of daily living, work activities, or productive activities,~~
11 ~~including instrumental activities of daily living, and play and leisure~~
12 ~~activities;~~

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

15 ~~(3) Design, fabricate, apply, or train in the use of assistive~~
16 ~~technology or orthotic devices and train in the use of prosthetic~~
17 ~~devices;~~

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

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

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

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

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

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

3 38-2527 An occupational therapy assistant may deliver occupational
4 therapy services enumerated in section 38-2510 ~~38-2526~~ in collaboration
5 with and under the supervision of an occupational therapist.

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

8 38-2530 ~~(1) In order to apply physical agent modalities, an~~
9 ~~occupational therapist shall be certified pursuant to this section.~~

10 (1)(a) If an occupational therapist's occupational therapy
11 educational program does not include education in superficial thermal,
12 deep thermal, electrotherapeutic, and mechanical devices or the
13 occupational therapist is not certified by the Hand Therapy Certification
14 Commission or other equivalent body recognized by the board, the
15 occupational therapist shall request approval from the board to practice
16 physical agent and instrument-assisted modalities.

17 (b) An occupational therapist may perform dry needling only in
18 accordance with the level of education and training successfully
19 completed. Education and training shall be approved by the board and
20 include clinical instruction and application on the performance of dry
21 needling.

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

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

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

29 (b) Is certified as a hand therapist by the Hand Therapy
30 Certification Commission or other equivalent body recognized by the
31 board;

1 (c) Has a minimum of five years of experience in the use of physical
2 agent and instrument-assisted modalities and has passed an examination
3 approved by the board on physical agent and instrument-assisted
4 modalities; or

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

8 (3) The department shall issue a certificate for an occupational
9 therapist to utilize dry needling if the occupational therapist has
10 successfully completed a board-approved training course to administer dry
11 needling.

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

15 (5)(a) An occupational therapy assistant may administer a physical
16 agent modality if the occupational therapy assistant (i) has successfully
17 completed a training course approved by the board and passed an
18 examination approved by the board on the physical agent modality and (ii)
19 is appropriately supervised by an occupational therapist who is approved
20 to administer physical agent modalities.

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

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

26 ~~The department shall issue a certificate to an occupational~~
27 ~~therapist to administer a physical agent modality if the occupational~~
28 ~~therapist:~~

29 ~~(a) Has successfully completed a training course approved by the~~
30 ~~board and passed an examination approved by the board on the physical~~
31 ~~agent modality;~~

1 ~~(b) Is certified as a hand therapist by the Hand Therapy~~
2 ~~Certification Commission or other equivalent entity recognized by the~~
3 ~~board;~~

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

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

10 ~~(6) (2)~~ The department shall issue a certificate to authorize an
11 occupational therapy assistant to set up and implement treatment using
12 superficial thermal agent modalities, deep thermal agent modalities,
13 electrotherapeutic modalities, and mechanical devices if the occupational
14 therapy assistant has successfully completed a training course approved
15 by the board and passed an examination approved by the board. Such set up
16 and implementation shall only be done under the onsite supervision of an
17 occupational therapist certified to administer such modalities
18 ~~superficial thermal agent modalities.~~

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

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

24 38-2531 (1) The board shall adopt and promulgate rules and
25 regulations regarding role delineation for occupational therapy
26 assistants and continuing competency requirements. Continuing education
27 is sufficient to meet continuing competency requirements. Such
28 requirements may also include, but not be limited to, one or more of the
29 continuing competency activities listed in section 38-145 which a
30 licensed person may select as an alternative to continuing education.

31 (2) The board may adopt and promulgate rules and regulations

1 governing the training courses for an occupational therapist to be
2 certified to administer a physical agent and instrument-assisted
3 modalities ~~modality~~. The board may adopt and promulgate rules and
4 regulations governing the training course for an occupational therapy
5 assistant to be certified to set up and implement superficial thermal
6 agent modalities. In adopting such rules and regulations, the board shall
7 give consideration to the levels of training and experience which are
8 required, in the opinion of the board, to protect the public health,
9 safety, and welfare and to insure, to the greatest extent possible, the
10 efficient, adequate, and safe practice of occupational therapy. Such
11 rules and regulations shall include the approval of examinations and the
12 passing score for such examinations for certification.

13 **Sec. 20.** Electromagnetic modality means the use of electromagnetic
14 waves, including radio waves, microwaves, and light waves, to transport
15 electrical and magnetic energy through space to effect changes in body
16 structures.

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

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

25 **Sec. 23.** Supervision means a collaborative process for responsible,
26 periodic review and inspection of all aspects of occupational therapy
27 services where (1) the occupational therapist is responsible for
28 occupational therapy services provided by an occupational therapy
29 assistant or an occupational therapy aide, and (2) an occupational
30 therapy assistant is responsible for the occupational therapy services
31 provided by the assistant. The goal of supervision is to ensure the safe

1 and effective delivery of occupational therapy services.

2 **Sec. 24.** Section 71-1911.03, Revised Statutes Cumulative Supplement,
3 2024, is amended to read:

4 71-1911.03 (1) An applicant for a license under the Child Care
5 Licensing Act shall provide to the department written proof of liability
6 insurance coverage for the hours such applicant is operating and a child
7 is in the applicant's care of at least one hundred thousand dollars per
8 occurrence prior to issuance of the license. ~~A licensee subject to the~~
9 ~~Child Care Licensing Act on July 1, 2014, shall obtain such liability~~
10 ~~insurance coverage and provide written proof to the department within~~
11 ~~thirty days after July 1, 2014.~~

12 (2) A licensee shall continue to maintain the required level of
13 liability insurance for any time period during which a child is in the
14 care of such licensee. Failure by a licensee to maintain the required
15 level of liability insurance coverage shall be deemed noncompliance with
16 the Child Care Licensing Act. If the licensee is the State of Nebraska or
17 a political subdivision, the licensee may utilize a risk retention group
18 or a risk management pool for purposes of providing such liability
19 insurance coverage or may self-insure all or part of such coverage.

20 **Sec. 25.** Section 71-1912, Revised Statutes Cumulative Supplement,
21 2024, is amended to read:

22 71-1912 (1) Before issuance of a license, the department shall
23 investigate or cause an investigation to be made, when it deems
24 necessary, to determine if the applicant or person in charge of the
25 program meets or is capable of meeting the physical well-being, safety,
26 and protection standards and the other rules and regulations of the
27 department adopted and promulgated under the Child Care Licensing Act.
28 The department may investigate the character of applicants and licensees,
29 any member of the applicant's or licensee's household, and the staff and
30 employees of programs. The department may at any time inspect or cause an
31 inspection to be made of any place where a program is operating to

1 determine if such program is being properly conducted.

2 (2) All inspections by the department shall be unannounced except
3 for initial licensure visits and consultation visits. Initial licensure
4 visits are announced visits necessary for a provisional license to be
5 issued to a family child care home I, family child care home II, child
6 care center, or school-age-only or preschool program. Consultation visits
7 are announced visits made at the request of a licensee for the purpose of
8 consulting with a department specialist on ways of improving the program.

9 (3) An unannounced inspection of any place where a program is
10 operating shall be conducted by the department or the city, village, or
11 county pursuant to subsection (2) of section 71-1914 at least annually
12 for a program licensed to provide child care for fewer than thirty
13 children and at least twice every year for a program licensed to provide
14 child care for thirty or more children. At each unannounced inspection,
15 the inspector shall request from the licensee, and verify, current proof
16 of required liability insurance. If the licensee is unable to provide
17 current proof of liability insurance or has let the required coverage
18 lapse, the department shall notify the licensee that proof of insurance
19 shall be provided to the department within three business days. If such
20 proof of insurance is not provided to the department within three
21 business days, the licensee's license shall be suspended. Licensure shall
22 be restored upon the department's receipt and verification of current
23 proof of the required liability insurance as provided in section
24 71-1911.03.

25 (4) Whenever an inspection is made, the findings shall be recorded
26 in a report designated by the department. The public shall have access to
27 the results of these inspections upon a written or oral request to the
28 department. The request must include the name and address of the program.
29 Additional unannounced inspections shall be performed as often as is
30 necessary for the efficient and effective enforcement of the Child Care
31 Licensing Act.

1 (5)(a) A person applying for a license as a child care provider or a
2 licensed child care provider under the Child Care Licensing Act shall
3 submit a request for a national criminal history record information check
4 for each child care staff member, including a prospective child care
5 staff member of the child care provider, at the applicant's or licensee's
6 expense, as set forth in this section.

7 (b) A prospective child care staff member shall submit to a national
8 criminal history record information check (i) prior to employment, except
9 as otherwise permitted under 45 C.F.R. 98.43, as such regulation existed
10 on January 1, 2019, or (ii) prior to residing in a family child care
11 home.

12 (c) The department shall provide documentation of national criminal
13 history record information checks which proves eligibility for
14 employment. Such documentation shall be made available to each child care
15 staff member or prospective child care staff member by the applicant or
16 licensee for at least one hundred eighty days after the last day of
17 employment or date the documentation was provided by the department,
18 whichever is later.

19 (d) A child care staff member shall be required to undergo a
20 national criminal history record information check not less than once
21 during each five-year period. A child care staff member shall submit a
22 complete set of his or her fingerprints to the Nebraska State Patrol. The
23 Nebraska State Patrol shall transmit a copy of the child care staff
24 member's fingerprints to the Federal Bureau of Investigation for a
25 national criminal history record information check. The national criminal
26 history record information check shall include information concerning
27 child care staff members from federal repositories of such information
28 and repositories of such information in other states, if authorized by
29 federal law for use by the Nebraska State Patrol. The Nebraska State
30 Patrol shall issue a report to the department that includes the
31 information collected from the national criminal history record

1 information check concerning child care staff members. The department
2 shall seek federal funds, if available, to assist child care providers
3 and child care staff members with the costs of the fingerprinting and
4 national criminal history record information check. If the department
5 does not receive sufficient federal funds to assist child care providers
6 and staff members with such costs, then the child care staff member being
7 screened, applicant for a license, or licensee shall pay the actual cost
8 of the fingerprinting and national criminal history record information
9 check, except that the department may pay all or part of the cost if
10 funding becomes available. The department and the Nebraska State Patrol
11 may adopt and promulgate rules and regulations concerning the costs
12 associated with the fingerprinting and the national criminal history
13 record information check. The department may adopt and promulgate rules
14 and regulations implementing national criminal history record information
15 check requirements for child care providers and child care staff members.

16 (e) A child care staff member shall also submit to the following
17 background checks at his or her expense not less than once during each
18 five-year period:

19 (i) A search of the National Crime Information Center's National Sex
20 Offender Registry; and

21 (ii) A search of the following registries, repositories, or
22 databases in the state where the child care provider is located or where
23 the child care staff member resides and each state where the child care
24 provider was located or where the child care staff member resided during
25 the preceding five years:

26 (A) State criminal registries or repositories;

27 (B) State sex offender registries or repositories; and

28 (C) State-based child abuse and neglect registries and databases.

29 (f) Background checks shall be portable between child care
30 providers.

31 (g) Any individual shall be ineligible for employment by a child

1 care provider if such individual:

2 (i) Refuses to consent to the national criminal history record
3 information check or a background check described in this subsection;

4 (ii) Knowingly makes a materially false statement in connection with
5 the national criminal history record information check or a background
6 check described in this subsection;

7 (iii) Is registered, or required to be registered, on a state sex
8 offender registry or repository or the National Sex Offender Registry; or

9 (iv) Has been convicted of a crime of violence, a crime of moral
10 turpitude, or a crime of dishonesty.

11 (h) The department may adopt and promulgate rules and regulations
12 for purposes of this section.

13 (i) A child care provider shall be ineligible for a license under
14 the Child Care Licensing Act and shall be ineligible to participate in
15 the child care subsidy program if the provider employs a child care staff
16 member who is ineligible for employment under subdivisions (g) or (h) of
17 this subsection.

18 (j) National criminal history record information and information
19 from background checks described in this subsection subject to state or
20 federal confidentiality requirements may only be used for purposes of
21 granting a child care license or approving a child care provider for
22 participation in the child care subsidy program.

23 (k) For purposes of this subsection:

24 (i) Child care provider means a child care program required to be
25 licensed under the Child Care Licensing Act; and

26 (ii) Child care staff member means an individual who is not related
27 to all of the children for whom child care services are provided and:

28 (A) Who is employed by a child care provider for compensation,
29 including contract employees or self-employed individuals;

30 (B) Whose activities involve the care or supervision of children for
31 a child care provider or unsupervised access to children who are cared

1 for or supervised by a child care provider; or

2 (C) Who is residing in a family child care home and who is eighteen
3 years of age or older.

4 **Sec. 26.** Section 71-1913, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 71-1913 (1) The department may request the State Fire Marshal to
7 inspect any program for fire safety pursuant to section 81-502. The State
8 Fire Marshal shall immediately notify the department whenever he or she
9 delegates authority for such inspections under such section.

10 (2) The department may investigate all facilities and programs of
11 licensed providers of child care programs as defined in section 71-1910
12 or applicants for licenses to provide such programs to determine if the
13 place or places to be covered by such licenses meet standards of
14 sanitation and physical well-being set by the department for the care and
15 protection of the child or children who may be placed in such facilities
16 and programs. The department may delegate this authority to qualified
17 local environmental health personnel.

18 (3) At each investigation, the inspector shall request from the
19 licensee, and verify, current proof of liability insurance pursuant to
20 section 71-1911.03.

21 (4) ~~(3)~~ This section does not apply to school-age child care
22 programs which are licensed pursuant to section 71-1917.

23 **Sec. 27.** Original sections 38-2501, 38-2503, 38-2506, 38-2507,
24 38-2510, 38-2511, 38-2512, 38-2513, 38-2514, 38-2520, 38-2526, 38-2527,
25 38-2530, 38-2531, and 71-1913, Reissue Revised Statutes of Nebraska, and
26 sections 38-2125, 38-2130, 38-2516, 38-2517, 38-2518, 71-1911.03, and
27 71-1912, Revised Statutes Cumulative Supplement, 2024, are repealed.