

HOUSE BILL NO. 239

INTRODUCED BY SIMPKINS, THAYER

BY REQUEST OF THE BOARD OF OCCUPATIONAL THERAPY PRACTICE

IN THE HOUSE

JANUARY 17, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
JANUARY 18, 1989	FIRST READING.
JANUARY 27, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 28, 1989	PRINTING REPORT.
JANUARY 30, 1989	SECOND READING, DO PASS.
JANUARY 31, 1989	ENGROSSING REPORT.
FEBRUARY 1, 1989	THIRD READING, PASSED. AYES, 96; NOES, 3.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
MARCH 13, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 14, 1989	SECOND READING, CONCURRED IN.
MARCH 16, 1989	THIRD READING, CONCURRED IN. AYES, 47; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 17, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

House BILL NO. *239*

INTRODUCED BY *Stephen H. Hays*
BY REQUEST OF THE BOARD OF OCCUPATIONAL THERAPY PRACTICE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPIST ASSISTANT TO BE CERTIFIED BY THE AMERICAN OCCUPATIONAL THERAPY CERTIFICATION BOARD FOR ORIGINAL LICENSURE OR LICENSURE BY RECIPROCITY; PERMITTING THE BOARD OF OCCUPATIONAL THERAPY PRACTICE TO APPLY SANCTIONS FOR UNPROFESSIONAL CONDUCT AS DEFINED BY RULE; AND AMENDING SECTIONS 37-24-104, 37-24-302, 37-24-303, 37-24-305, AND 37-24-309, MCA."

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

Section 1. Section 37-24-104, MCA, is amended to read:

"37-24-104. **Exemptions.** Nothing in this chapter prevents or restricts the practice, services, or activities of:

(1) a person licensed in this state under any other law or certified or registered as a member of an occupational or professional group other than occupational therapy from engaging in the profession or occupation for which he is licensed, certified, or registered;

(2) a person who provides treatment, teaches living skills, designs orthotic or prosthetic devices, administers

tests, or engages in other activities described in 37-24-103 but does not represent himself as an occupational therapist;

(3) a person employed as an occupational therapist or occupational therapy assistant by an institution or agency of the federal government;

(4) a person pursuing a supervised course of study leading to a degree or certificate in occupational therapy at an accredited institution or under an approved educational program if the person is designated by a title that clearly indicates his status as a student or trainee;

(5) a person fulfilling the supervised fieldwork experience requirements of 37-24-303 if the experience constitutes a part of the experience necessary to meet the requirements of that section;

(6) a person performing occupational therapy services in the state if these services are performed for no more than 10 days in a calendar year in association with an occupational therapist licensed under this chapter, provided that:

(a) the person is licensed under the law of another state that has licensure requirements at least as stringent as the requirements of this chapter; or

(b) the person meets the requirements for certification as an occupational therapist registered (OTR) or a certified occupational therapy assistant (COTA),

established by the American occupational therapy association
certification board (AOTCB); or

(7) a person employed as an occupational therapy
aide."

Section 2. Section 37-24-302, MCA, is amended to read:

"37-24-302. **Application.** An applicant applying for
licensure as an occupational therapist or as an occupational
therapy assistant shall file a written application on forms
prescribed by the board, showing that the applicant meets
the requirements of 37-24-303(1)(a) ~~and--(b)~~ through
(1)(c)."

Section 3. Section 37-24-303, MCA, is amended to read:

"37-24-303. **Requirements for licensure.** (1) To be
eligible for licensure by the board as an occupational
therapist or an occupational therapy assistant, the
applicant shall:

(a) present evidence of having successfully completed
the academic requirements of an educational program
recognized by the board for the license sought;

(b) submit evidence of having successfully completed a
period of supervised fieldwork experience arranged by the
recognized educational institution where he completed the
academic requirements or by a nationally recognized
professional association; and

(c) submit evidence of having been certified by the

American occupational therapy certification board (AOTCB);
and

(d) pass an examination as provided for in
37-24-304.

(2) The supervised fieldwork experience requirement
for an occupational therapist is a minimum of 6 months. The
supervised fieldwork experience requirement for an
occupational therapy assistant is a minimum of 2 months."

Section 4. Section 37-24-305, MCA, is amended to read:

"37-24-305. **Waiver of requirements for licensure.** (1)
The board may waive the examination, education, or
experience requirements and grant a license to an applicant
who presents proof of current licensure as an occupational
therapist or occupational therapy assistant in another
state, the District of Columbia, or a territory of the
United States which requires standards for licensure that
the board considers equivalent to the requirements for
licensure under this chapter.

(2) The board may waive the examination, education, or
experience requirements and grant a license to a person
certified by the American occupational therapy association
(AOTA) certification board (AOTCB) as a certified
occupational therapy assistant (COTA) or an occupational
therapist registered (OTR) after October 1, 1985; if the
board---determines---that---the---requirements---for---such

~~certification---are---equivalent--to--the--requirements--for
licensure-under-this-chapter.~~

(3) Occupational therapists and occupational therapy assistants trained in a foreign country must satisfy the examination requirements of 37-24-304. The board shall require foreign-trained applicants, before examination, to furnish proof of educational and supervised fieldwork requirements substantially equal to those required by 37-24-303.

(4) The board may waive the educational requirements and license an applicant as an occupational therapist if the applicant has practiced as an occupational therapy assistant for 4 years, has completed the experience requirement before January 1, 1988, and has passed the examination for occupational therapists."

Section 5. Section 37-24-309, MCA, is amended to read:

"37-24-309. Denial, suspension, or revocation of license. (1) The board may refuse to issue or renew a license or may revoke or suspend the license of any licensee or applicant if he has:

(a) obtained a license by means of fraud, misrepresentation, or concealment of material facts;

(b) ~~violated-ethical-standards-of-practice-established pursuant-to-this-chapter~~ been found guilty of unprofessional conduct as defined by rules adopted by the board;

(c) been convicted of a crime considered sufficient under 37-1-203 to warrant denial, revocation, or suspension of the license;

(d) violated any lawful order or rule of the board; or

(e) violated any provision of this chapter.

(2) Denial, suspension, or revocation of a license is permissible only after a hearing and procedures that comply with all applicable requirements of the Montana Administrative Procedure Act.

(3) One year after the denial, suspension, or revocation of a license, a person may apply for reinstatement and licensure. The board may in its discretion require an examination for reinstatement."

NEW SECTION. **Section 6.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

-End-

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

1 HOUSE BILL NO. 239
2 INTRODUCED BY Lumpkins
3 BY REQUEST OF THE BOARD OF OCCUPATIONAL THERAPY PRACTICE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN
6 OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPIST ASSISTANT
7 TO BE CERTIFIED BY THE AMERICAN OCCUPATIONAL THERAPY
8 CERTIFICATION BOARD FOR ORIGINAL LICENSURE OR LICENSURE BY
9 RECIPROCITY; PERMITTING THE BOARD OF OCCUPATIONAL THERAPY
10 PRACTICE TO APPLY SANCTIONS FOR UNPROFESSIONAL CONDUCT AS
11 DEFINED BY RULE; AND AMENDING SECTIONS 37-24-104, 37-24-302,
12 37-24-303, 37-24-305, AND 37-24-309, MCA."
13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15 **Section 1.** Section 37-24-104, MCA, is amended to read:
16 **"37-24-104. Exemptions.** Nothing in this chapter
17 prevents or restricts the practice, services, or activities
18 of:
19 (1) a person licensed in this state under any other
20 law or certified or registered as a member of an
21 occupational or professional group other than occupational
22 therapy from engaging in the profession or occupation for
23 which he is licensed, certified, or registered;
24 (2) a person who provides treatment, teaches living
25 skills, designs orthotic or prosthetic devices, administers

1 tests, or engages in other activities described in 37-24-103
2 but does not represent himself as an occupational therapist;
3 (3) a person employed as an occupational therapist or
4 occupational therapy assistant by an institution or agency
5 of the federal government;
6 (4) a person pursuing a supervised course of study
7 leading to a degree or certificate in occupational therapy
8 at an accredited institution or under an approved
9 educational program if the person is designated by a title
10 that clearly indicates his status as a student or trainee;
11 (5) a person fulfilling the supervised fieldwork
12 experience requirements of 37-24-303 if the experience
13 constitutes a part of the experience necessary to meet the
14 requirements of that section;
15 (6) a person performing occupational therapy services
16 in the state if these services are performed for no more
17 than 10 days in a calendar year in association with an
18 occupational therapist licensed under this chapter, provided
19 that:
20 (a) the person is licensed under the law of another
21 state that has licensure requirements at least as stringent
22 as the requirements of this chapter; or
23 (b) the person meets the requirements for
24 certification as an occupational therapist registered (OTR)
25 or a certified occupational therapy assistant (COTA),

1 established by the American occupational therapy association
2 certification board (AOTCB); or

3 (7) a person employed as an occupational therapy
4 aide."

5 **Section 2.** Section 37-24-302, MCA, is amended to read:

6 "37-24-302. **Application.** An applicant applying for
7 licensure as an occupational therapist or as an occupational
8 therapy assistant shall file a written application on forms
9 prescribed by the board, showing that the applicant meets
10 the requirements of 37-24-303(1)(a) and--(1)(b) through
11 (1)(c)."

12 **Section 3.** Section 37-24-303, MCA, is amended to read:

13 "37-24-303. **Requirements for licensure.** (1) To be
14 eligible for licensure by the board as an occupational
15 therapist or an occupational therapy assistant, the
16 applicant shall:

17 (a) present evidence of having successfully completed
18 the academic requirements of an educational program
19 recognized by the board for the license sought;

20 (b) submit evidence of having successfully completed a
21 period of supervised fieldwork experience arranged by the
22 recognized educational institution where he completed the
23 academic requirements or by a nationally recognized
24 professional association; and

25 (c) submit evidence of having been certified by the

1 American occupational therapy certification board (AOTCB);
2 and

3 (c)(d) pass an examination as provided for in
4 37-24-304.

5 (2) The supervised fieldwork experience requirement
6 for an occupational therapist is a minimum of 6 months. The
7 supervised fieldwork experience requirement for an
8 occupational therapy assistant is a minimum of 2 months."

9 **Section 4.** Section 37-24-305, MCA, is amended to read:

10 "37-24-305. **Waiver of requirements for licensure.** (1)
11 The board may waive the examination, education, or
12 experience requirements and grant a license to an applicant
13 who presents proof of current licensure as an occupational
14 therapist or occupational therapy assistant in another
15 state, the District of Columbia, or a territory of the
16 United States which requires standards for licensure that
17 the board considers equivalent to the requirements for
18 licensure under this chapter.

19 (2) The board may waive the examination, education, or
20 experience requirements and grant a license to a person
21 certified by the American occupational therapy association
22 {AOTA} certification board (AOTCB) as a certified
23 occupational therapy assistant (COTA) or an occupational
24 therapist registered (OTR) after October 1, 1985, if the
25 board---determines---that---the---requirements---for---such

1 certification---are---equivalent--to--the--requirements--for
2 licensure-under-this-chapter.

3 (3) Occupational therapists and occupational therapy
4 assistants trained in a foreign country must satisfy the
5 examination requirements of 37-24-304. The board shall
6 require foreign-trained applicants, before examination, to
7 furnish proof of educational and supervised fieldwork
8 requirements substantially equal to those required by
9 37-24-303.

10 (4) The board may waive the educational requirements
11 and license an applicant as an occupational therapist if the
12 applicant has practiced as an occupational therapy assistant
13 for 4 years, has completed the experience requirement before
14 January 1, 1988, and has passed the examination for
15 occupational therapists."

16 **Section 5.** Section 37-24-309, MCA, is amended to read:

17 "37-24-309. Denial, suspension, or revocation of
18 license. (1) The board may refuse to issue or renew a
19 license or may revoke or suspend the license of any licensee
20 or applicant if he has:

21 (a) obtained a license by means of fraud,
22 misrepresentation, or concealment of material facts;

23 (b) ~~violated ethical standards of practice established~~
24 ~~pursuant to this chapter~~ been found guilty of unprofessional
25 conduct as defined by rules adopted by the board;

1 (c) been convicted of a crime considered sufficient
2 under 37-1-203 to warrant denial, revocation, or suspension
3 of the license;

4 (d) violated any lawful order or rule of the board; or
5 (e) violated any provision of this chapter.

6 (2) Denial, suspension, or revocation of a license is
7 permissible only after a hearing and procedures that comply
8 with all applicable requirements of the Montana
9 Administrative Procedure Act.

10 (3) One year after the denial, suspension, or
11 revocation of a license, a person may apply for
12 reinstatement and licensure. The board may in its discretion
13 require an examination for reinstatement."

14 NEW SECTION. **Section 6.** Extension of authority. Any
15 existing authority to make rules on the subject of the
16 provisions of [this act] is extended to the provisions of
17 [this act].

-End-

House BILL NO. *239*

INTRODUCED BY *Josephine H. H. H.*

BY REQUEST OF THE BOARD OF OCCUPATIONAL THERAPY PRACTICE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPIST ASSISTANT TO BE CERTIFIED BY THE AMERICAN OCCUPATIONAL THERAPY CERTIFICATION BOARD FOR ORIGINAL LICENSURE OR LICENSURE BY RECIPROCITY; PERMITTING THE BOARD OF OCCUPATIONAL THERAPY PRACTICE TO APPLY SANCTIONS FOR UNPROFESSIONAL CONDUCT AS DEFINED BY RULE; AND AMENDING SECTIONS 37-24-104, 37-24-302, 37-24-303, 37-24-305, AND 37-24-309, MCA."

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

Section 1. Section 37-24-104, MCA, is amended to read:

"37-24-104. **Exemptions.** Nothing in this chapter prevents or restricts the practice, services, or activities of:

(1) a person licensed in this state under any other law or certified or registered as a member of an occupational or professional group other than occupational therapy from engaging in the profession or occupation for which he is licensed, certified, or registered;

(2) a person who provides treatment, teaches living skills, designs orthotic or prosthetic devices, administers

tests, or engages in other activities described in 37-24-103 but does not represent himself as an occupational therapist;

(3) a person employed as an occupational therapist or occupational therapy assistant by an institution or agency of the federal government;

(4) a person pursuing a supervised course of study leading to a degree or certificate in occupational therapy at an accredited institution or under an approved educational program if the person is designated by a title that clearly indicates his status as a student or trainee;

(5) a person fulfilling the supervised fieldwork experience requirements of 37-24-303 if the experience constitutes a part of the experience necessary to meet the requirements of that section;

(6) a person performing occupational therapy services in the state if these services are performed for no more than 10 days in a calendar year in association with an occupational therapist licensed under this chapter, provided that:

(a) the person is licensed under the law of another state that has licensure requirements at least as stringent as the requirements of this chapter; or

(b) the person meets the requirements for certification as an occupational therapist registered (OTR) or a certified occupational therapy assistant (COTA),

1 established by the American occupational therapy ~~association~~
2 certification board (AOTCB); or

3 (7) a person employed as an occupational therapy
4 aide."

5 **Section 2.** Section 37-24-302, MCA, is amended to read:

6 "37-24-302. **Application.** An applicant applying for
7 licensure as an occupational therapist or as an occupational
8 therapy assistant shall file a written application on forms
9 prescribed by the board, showing that the applicant meets
10 the requirements of 37-24-303(1)(a) ~~and--(b)~~ through
11 (1)(c)."

12 **Section 3.** Section 37-24-303, MCA, is amended to read:

13 "37-24-303. **Requirements for licensure.** (1) To be
14 eligible for licensure by the board as an occupational
15 therapist or an occupational therapy assistant, the
16 applicant shall:

17 (a) present evidence of having successfully completed
18 the academic requirements of an educational program
19 recognized by the board for the license sought;

20 (b) submit evidence of having successfully completed a
21 period of supervised fieldwork experience arranged by the
22 recognized educational institution where he completed the
23 academic requirements or by a nationally recognized
24 professional association; and

25 (c) submit evidence of having been certified by the

1 American occupational therapy certification board (AOTCB);

2 and

3 ~~(c)~~(d) pass an examination as provided for in
4 37-24-304.

5 (2) The supervised fieldwork experience requirement
6 for an occupational therapist is a minimum of 6 months. The
7 supervised fieldwork experience requirement for an
8 occupational therapy assistant is a minimum of 2 months."

9 **Section 4.** Section 37-24-305, MCA, is amended to read:

10 "37-24-305. **Waiver of requirements for licensure.** (1)
11 The board may waive the examination, education, or
12 experience requirements and grant a license to an applicant
13 who presents proof of current licensure as an occupational
14 therapist or occupational therapy assistant in another
15 state, the District of Columbia, or a territory of the
16 United States which requires standards for licensure that
17 the board considers equivalent to the requirements for
18 licensure under this chapter.

19 (2) The board may waive the examination, education, or
20 experience requirements and grant a license to a person
21 certified by the American occupational therapy ~~association~~
22 ~~(AOTA)~~ certification board (AOTCB) as a certified
23 occupational therapy assistant (COTA) or an occupational
24 therapist registered (OTR) after October 1, 1985, ~~if the~~
25 ~~board---determines---that---the---requirements---for---such~~

1 ~~certification---are---equivalent--to--the--requirements--for~~
2 ~~licensure-under-this-chapter.~~

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4 assistants trained in a foreign country must satisfy the
5 examination requirements of 37-24-304. The board shall
6 require foreign-trained applicants, before examination, to
7 furnish proof of educational and supervised fieldwork
8 requirements substantially equal to those required by
9 37-24-303.

10 (4) The board may waive the educational requirements
11 and license an applicant as an occupational therapist if the
12 applicant has practiced as an occupational therapy assistant
13 for 4 years, has completed the experience requirement before
14 January 1, 1988, and has passed the examination for
15 occupational therapists."

16 **Section 5.** Section 37-24-309, MCA, is amended to read:

17 "37-24-309. Denial, suspension, or revocation of
18 license. (1) The board may refuse to issue or renew a
19 license or may revoke or suspend the license of any licensee
20 or applicant if he has:

21 (a) obtained a license by means of fraud,
22 misrepresentation, or concealment of material facts;

23 (b) ~~violated-ethical-standards-of-practice-established~~
24 ~~pursuant-to-this-chapter~~ been found guilty of unprofessional
25 conduct as defined by rules adopted by the board;

1 (c) been convicted of a crime considered sufficient
2 under 37-1-203 to warrant denial, revocation, or suspension
3 of the license;

4 (d) violated any lawful order or rule of the board; or
5 (e) violated any provision of this chapter.

6 (2) Denial, suspension, or revocation of a license is
7 permissible only after a hearing and procedures that comply
8 with all applicable requirements of the Montana
9 Administrative Procedure Act.

10 (3) One year after the denial, suspension, or
11 revocation of a license, a person may apply for
12 reinstatement and licensure. The board may in its discretion
13 require an examination for reinstatement."

14 NEW SECTION. **Section 6.** Extension of authority. Any
15 existing authority to make rules on the subject of the
16 provisions of [this act] is extended to the provisions of
17 [this act].

-End-

HOUSE BILL NO. 239

INTRODUCED BY SIMPKINS, THAYER

BY REQUEST OF THE BOARD OF OCCUPATIONAL THERAPY PRACTICE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPIST ASSISTANT TO BE CERTIFIED BY THE AMERICAN OCCUPATIONAL THERAPY CERTIFICATION BOARD FOR ORIGINAL LICENSURE OR LICENSURE BY RECIPROCITY; PERMITTING THE BOARD OF OCCUPATIONAL THERAPY PRACTICE TO APPLY SANCTIONS FOR UNPROFESSIONAL CONDUCT AS DEFINED BY RULE; AND AMENDING SECTIONS 37-24-104, 37-24-302, 37-24-303, 37-24-305, AND 37-24-309, MCA."

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tests, or engages in other activities described in 37-24-103 but does not represent himself as an occupational therapist;

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American occupational therapy certification board (AOTCB);
and

(d) pass an examination as provided for in 37-24-304.

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Section 4. Section 37-24-305, MCA, is amended to read:

"37-24-305. **Waiver of requirements for licensure.** (1) The board may waive the examination, education, or experience requirements and grant a license to an applicant who presents proof of current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or a territory of the United States which requires standards for licensure that the board considers equivalent to the requirements for licensure under this chapter.

(2) The board may waive the examination, education, or experience requirements and grant a license to a person certified by the American occupational therapy association (AOTA) certification board (AOTCB) as a certified occupational therapy assistant (COTA) or an occupational therapist registered (OTR) after October 1, 1985, if the board determines that the requirements for such

1 certification---are---equivalent--to--the--requirements--for
2 licensure-under-this-chapter.

3 (3) Occupational therapists and occupational therapy
4 assistants trained in a foreign country must satisfy the
5 examination requirements of 37-24-304. The board shall
6 require foreign-trained applicants, before examination, to
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8 requirements substantially equal to those required by
9 37-24-303.

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11 and license an applicant as an occupational therapist if the
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16 **Section 5.** Section 37-24-309, MCA, is amended to read:

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18 license. (1) The board may refuse to issue or renew a
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21 (a) obtained a license by means of fraud,
22 misrepresentation, or concealment of material facts;

23 (b) ~~violated ethical standards of practice established~~
24 ~~pursuant to this chapter~~ been found guilty of unprofessional
25 conduct as defined by rules adopted by the board;

1 (c) been convicted of a crime considered sufficient
2 under 37-1-203 to warrant denial, revocation, or suspension
3 of the license;

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12 reinstatement and licensure. The board may in its discretion
13 require an examination for reinstatement."

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15 existing authority to make rules on the subject of the
16 provisions of [this act] is extended to the provisions of
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-End-