

SENATE BILL NO. 166

INTRODUCED BY TOWE, RYE, FRITZ, S. RICE

IN THE SENATE

JANUARY 16, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY.  FIRST READING.
FEBRUARY 15, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 16, 1993	PRINTING REPORT.  ON MOTION, CONSIDERATION PASSED TILL THE 41ST LEGISLATIVE DAY.
FEBRUARY 19, 1993	SECOND READING, DO PASS.
FEBRUARY 20, 1993	ENGROSSING REPORT.  THIRD READING, PASSED. AYES, 50; NOES, 0.  TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 23, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.  FIRST READING.
MARCH 13, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 17, 1993	SECOND READING, CONCURRED IN.
MARCH 19, 1993	THIRD READING, CONCURRED IN. AYES, 99; NOES, 0.
MARCH 22, 1993	RETURNED TO SENATE.

IN THE SENATE

MARCH 22, 1993	RECEIVED FROM HOUSE.  SENT TO ENROLLING.
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REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 166  
 2 INTRODUCED BY Sen. Fritz to R.

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN  
 5 DEFINITIONS RELATING TO OCCUPATIONAL THERAPY; ESTABLISHING  
 6 CRITERIA FOR THE USE OF OCCUPATIONAL THERAPY TECHNIQUES;  
 7 AMENDING SECTION 37-24-103, MCA; AND PROVIDING AN IMMEDIATE  
 8 EFFECTIVE DATE."  
 9

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

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

12 "37-24-103. (Temporary) Definitions. As used in this  
 13 chapter, unless the context requires otherwise, the  
 14 following definitions apply:

15 (1) "Board" means the board of occupational therapy  
 16 practice established by 2-15-1859.

17 (2) "Certified occupational therapy assistant" means a  
 18 person licensed to assist in the practice of occupational  
 19 therapy under this chapter, who works under the general  
 20 supervision of an occupational therapist in accordance with  
 21 the provisions of the Essentials for an Approved Educational  
 22 Program for the Occupational Therapy Assistant, published by  
 23 the American occupational therapy association and adopted by  
 24 the board.

25 (3) "Department" means the department of commerce

1 provided for in Title 2, chapter 15, part 18.

2 (3)(4) "Occupational therapist" means a person licensed  
 3 to practice occupational therapy under this chapter.

4 (4)(5) "Occupational therapy" means the use of  
 5 purposeful activity with--an and interventions to achieve  
 6 functional outcomes to maximize the independence and the  
 7 maintenance of health of an individual who is limited by  
 8 physical injury or illness, psychosocial dysfunction, mental  
 9 illness, developmental or learning disability, or the aging  
 10 process, cognitive impairment, or an adverse environmental  
 11 condition in--order--to--maximize---independence,---prevent  
 12 disability,---and--maintain--health. The practice encompasses  
 13 evaluation assessment, treatment, and consultation.  
 14 Treatment--includes--the--use--of--superficial--heat--and--cold,  
 15 including--hot--packs,--cold--packs,--ice,--paraffin,--and--water,  
 16 applied--to--the--elbow,--forearm,--and--hand,--vibration--and  
 17 brushing,--treatment--of--oral--motor--conditions,--and--the--use--of  
 18 therapeutic--devices--limited--to--the--elbow,--forearm,--and--hand  
 19 that--the--board--approves--consistent--with--the--basic--education  
 20 requirements--for--professional--licensure--under--this--chapter.  
 21 Treatment--is--limited--to--procedures--in--preparation--for--or--in  
 22 conjunction--with--purposeful--activity. Occupational therapy  
 23 services may be provided individually, in groups, or through  
 24 social systems. Specific--occupational Occupational therapy  
 25 services interventions include but are not limited to:

- 1 (a) teaching daily living skills;
- 2 (b) developing perceptual-motor skills and sensory
- 3 integrative functioning;
- 4 (c) developing play skills and--prevocational and
- 5 leisure capacities and enhancing educational performance
- 6 skills;
- 7 (d) designing, fabricating, or applying splints--or
- 8 selective--adaptive--equipment--and--training--in-the-use-of
- 9 upper-extremity--prosthetics--or--upper--extremity--orthotic
- 10 devices rehabilitative technology, such as selected orthotic
- 11 devices, and providing training in the functional use of
- 12 assistive technology and upper extremity orthotic or
- 13 prosthetic devices;
- 14 (e) using-specifically-designed-crafts-and-exercises-to
- 15 enhance-functional-performance providing for the development
- 16 of emotional, motivational, cognitive, psychosocial, or
- 17 physical components of performance;
- 18 (f) administering-and-interpreting-tests-such-as-manual
- 19 muscle--and--range--of--motion;--and providing assessment and
- 20 evaluation, including the use of skilled observation or the
- 21 administration and interpretation of standardized or
- 22 nonstandardized tests and measurements to identify areas for
- 23 occupational therapy services;
- 24 (g) adapting environments for the handicapped disabled,
- 25 including assistive technology, such as environmental

- 1 controls, wheelchair modifications, and positioning;
- 2 (h) developing feeding and swallowing skills;
- 3 (i) enhancing and assessing functional performance and
- 4 work readiness through exercise, range of motion, and use of
- 5 ergonomic principles;
- 6 (j) providing neuromuscular facilitation and
- 7 inhibition, including the activation, facilitation, and
- 8 inhibition of muscle action, both voluntary and involuntary,
- 9 through the use of appropriate sensory stimulation,
- 10 including vibration or brushing, to evoke a desired muscular
- 11 response;
- 12 (k) employing physical agent modalities as defined in
- 13 this section; and
- 14 (l) promoting health and wellness.
- 15 (5)(6) "Occupational therapy aide" means a person who
- 16 assists in the practice of occupational therapy under the
- 17 direct supervision of an occupational therapist or
- 18 occupational therapy assistant and whose activities require
- 19 an understanding of occupational therapy but do not require
- 20 professional or advanced training in the basic anatomical,
- 21 biological, psychological, and social sciences involved in
- 22 the practice of occupational therapy.
- 23 (6)--"Occupational therapy assistant"--means--a--person
- 24 licensed--to--assist-in-the-practice-of-occupational-therapy
- 25 under-this-chapter,--who-works-under-the-general--supervision

~~of--an--occupational--therapist--in--accordance--with--the  
provisions-of-the-Essentials--for--an--Approved--Educational  
Program-for-the-Occupational-Therapy-Assistant, published-by  
the-American-occupational-therapy-association, as-it-read-on  
October-17-1985.~~

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

(8) "Physical agent modalities" means those modalities  
that produce a response in soft tissue through the use of  
light, water, temperature, sound, or electricity. Physical  
agent modalities are characterized as adjunctive methods  
used in conjunction with or in immediate preparation for  
patient involvement in purposeful activity. Superficial  
physical agent modalities include hot packs, cold packs,  
ice, fluidotherapy, paraffin, water, and other commercially  
available superficial heating and cooling devices. Use of  
superficial physical agent modalities is limited to the  
shoulder, arm, elbow, forearm, wrist, and hand and is  
subject to the provisions of [section 2]. Use of sound and  
electrical physical agent modality devices is limited to the  
elbow, forearm, wrist, and hand and is subject to the

provisions of [section 3]. (Terminates July 1, 1993--sec. 3,  
Ch. 35, L. 1991.)

37-24-103. (Effective July 1, 1993) Definitions. As  
used in this chapter, unless the context requires otherwise,  
the following definitions apply:

(1) "Board" means the board of occupational therapy  
practice established by 2-15-1859.

(2) "Certified occupational therapy assistant" means a  
person licensed to assist in the practice of occupational  
therapy under this chapter, who works under the general  
supervision of an occupational therapist in accordance with  
the provisions of the Essentials for an Approved Educational  
Program for the Occupational Therapy Assistant, published by  
the American occupational therapy association and adopted by  
the board.

†2†(3) "Department" means the department of commerce  
provided for in Title 2, chapter 15, part 18.

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

†4†(5) "Occupational therapy" means the use of  
purposeful activity with an and interventions to achieve  
functional outcomes to maximize the independence and the  
maintenance of health of an individual who is limited by  
physical injury or illness, psychosocial dysfunction, mental  
illness, developmental or learning disability, or the aging

1 process, cognitive impairment, or an adverse environmental  
 2 condition in--order--to--maximize--independence--prevent  
 3 disability--and-maintain-health. The practice encompasses  
 4 evaluation assessment, treatment, and consultation.  
 5 Occupational therapy services may be provided individually,  
 6 in groups, or through social systems. ~~Specific-occupational~~  
 7 Occupational therapy ~~services~~ interventions include but are  
 8 not limited to:

- 9 (a) teaching daily living skills;
- 10 (b) developing perceptual-motor skills and sensory  
 11 integrative functioning;
- 12 (c) developing play skills and--prevocational and  
 13 leisure capacities and enhancing educational performance  
 14 skills;
- 15 (d) designing, fabricating, or applying splints--or  
 16 selective-adaptive-equipment-and--training--in--the--use--of  
 17 upper--extremity--prosthetics--or--upper--extremity-orthotic  
 18 devices rehabilitative technology, such as selected orthotic  
 19 devices, and providing training in the functional use of  
 20 assistive technology, upper extremity orthotic or prosthetic  
 21 devices;
- 22 (e) using-specifically-designed-crafts-and-exercises-to  
 23 enhance-functional-performance providing for the development  
 24 of emotional, motivational, cognitive, or physical  
 25 components of performance;

1 (f) administering-and-interpreting-tests-such-as-manual  
 2 muscle--and--range--of--motion--and providing assessment and  
 3 evaluation, including the use of skilled observation or the  
 4 administration and interpretation of standardized or  
 5 nonstandardized tests and measurements to identify areas for  
 6 occupational therapy services;

7 (g) adapting environments for the handicapped disabled,  
 8 including assistive technology, such as environmental  
 9 controls, wheelchair modifications, and positioning;

10 (h) developing feeding and swallowing skills;

11 (i) enhancing and assessing functional performance and  
 12 work readiness through exercise, range of motion, and use of  
 13 ergonomic principles;

14 (j) providing neuromuscular facilitation and  
 15 inhibition, including the activation, facilitation, and  
 16 inhibition of muscle action, both voluntary and involuntary,  
 17 through the use of appropriate sensory stimulation,  
 18 including vibration or brushing, to evoke a desired muscular  
 19 response;

20 (k) employing physical agent modalities as defined in  
 21 this section; and

22 (l) promoting health and wellness.

23 (5)(6) "Occupational therapy aide" means a person who  
 24 assists in the practice of occupational therapy under the  
 25 direct supervision of an occupational therapist or

occupational therapy assistant and whose activities require an understanding of occupational therapy but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.

~~(6) "Occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under this chapter, who works under the general supervision of an occupational therapist in accordance with the provisions of the Essentials for an Approved Educational Program for the Occupational Therapy Assistant, published by the American Occupational Therapy Association, as it read on October 17, 1985.~~

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

(8) "Physical agent modalities" means those modalities that produce a response in soft tissue through the use of light, water, temperature, sound, or electricity. Physical agent modalities are characterized as adjunctive methods used in conjunction with or in immediate preparation for patient involvement in purposeful activity. Superficial

physical agent modalities include hot packs, cold packs, ice, fluidotherapy, paraffin, water, and other commercially available superficial heating and cooling devices. Use of superficial physical agent modalities is limited to the shoulder, arm, elbow, forearm, wrist, and hand and is subject to the provisions of [section 2]. Use of sound and electrical physical agent modality devices is limited to the elbow, forearm, wrist, and hand and is subject to the provisions of [section 3]."

NEW SECTION. Section 2. Use of superficial physical agent modalities. (1) Except as provided in subsection (2), a person may not use occupational therapy techniques involving superficial physical agent modalities unless the person:

(a) is a licensed occupational therapist under this chapter;

(b) limits application of superficial agent modalities to the shoulder, arm, elbow, forearm, wrist, and hand; and

(c) has successfully completed 16 hours of instruction or training in superficial physical agent modalities and in documents competency, as approved by the board, in the following areas:

(i) principles of physics related to specific properties of light, water, temperature, sound, or electricity, as indicated by selected modalities;

(ii) physiological, neurophysiological, and electrophysiological changes that occur as a result of the application of selected modalities;

(iii) the response of normal and abnormal tissue to the application or modality;

(iv) indications and contraindications related to the selection and application of the modality;

(v) guidelines for the treatment or administration of the modality within the philosophical framework of occupational therapy;

(vi) guidelines for educating the patient, including information about risks and benefits of the occupational therapy techniques;

(vii) safety rules and precautions related to the selected modalities;

(viii) methods for documenting the effectiveness and immediate and long-term effects of treatment in relation to task-oriented activities; and

(ix) characteristics of and guidelines for the use of therapy equipment, including safe operation, adjustment, and care and maintenance of the equipment.

(2) A certified occupational therapy assistant who works under the direct supervision of an occupational therapist may apply superficial physical agent modalities to the shoulder, arm, elbow, forearm, wrist, and hand.

**NEW SECTION. Section 3.** Use of sound and electrical physical agent modalities. A person may not utilize occupational therapy techniques involving sound or electrical physical agent modality devices unless the person:

(1) is licensed under this chapter;

(2) limits application of sound and electrical physical agent modalities to the elbow, forearm, wrist, or hand; and

(3) (a) provides to the board documentation of certification by the hand certification commission, inc., and has successfully completed 40 hours of instruction or training in sound and electrical physical agent modality devices and in documents competency, as approved by the board, in the areas provided in [section 2(2)]; or

(b) has successfully completed 100 hours of instruction or training in sound and electrical physical agent modality devices and in documents competency, as approved by the board, in the areas provided in [section 2(2)].

**NEW SECTION. Section 4.** Codification instruction. [Sections 2 and 3] are intended to be codified as an integral part of Title 37, chapter 24, part 1, and the provisions of Title 37, chapter 24, part 1, apply to [sections 2 and 3].

**NEW SECTION. Section 5.** Effective date. [This act] is effective on passage and approval.



APPROVED BY COMMITTEE  
ON PUBLIC HEALTH, WELFARE  
& SAFETY

SENATE BILL NO. 166

INTRODUCED BY TOWE, RYE, FRITZ, S. RICE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN DEFINITIONS RELATING TO OCCUPATIONAL THERAPY; ESTABLISHING CRITERIA FOR THE USE OF OCCUPATIONAL THERAPY TECHNIQUES; AMENDING SECTION 37-24-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

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(3) "Department" means the department of commerce

provided for in Title 2, chapter 15, part 18.

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

(5) "Occupational therapy" means the use of purposeful activity with--an and interventions to achieve functional outcomes to maximize the independence and the maintenance of health of an individual who is limited by physical injury or illness, psychosocial dysfunction, mental illness, developmental or learning disability, or the aging process, cognitive impairment, or an adverse environmental condition in--order--to--maximize--independence,--prevent disability,--and--maintain--health. The practice encompasses evaluation assessment, treatment, and consultation. Treatment--includes--the--use--of--superficial--heat--and--cold, including hot packs, cold packs, ice, paraffin,--and--water, applied--to--the--elbow,--forearm,--and--hand, vibration and brushing, treatment of oral motor conditions, and the use of therapeutic devices limited to the elbow, forearm, and--hand that--the board approves consistent with the basic education requirements for professional licensure under this--chapter. Treatment--is limited to procedures in preparation for or in conjunction with purposeful activity. Occupational therapy services may be provided individually, in groups, or through social systems. Specific occupational Occupational therapy services interventions include but are not limited to:

- 1 (a) teaching daily living skills;
- 2 (b) developing perceptual-motor skills and sensory  
3 integrative functioning;
- 4 (c) developing play skills and--prevocational and  
5 leisure capacities and enhancing educational performance  
6 skills;
- 7 (d) designing, fabricating, or applying splints--or  
8 selective--adaptive--equipment--and--training--in-the-use-of  
9 upper-extremity--prosthetics--or--upper--extremity--orthotic  
10 devices rehabilitative-technology--such-as-selected-orthotic  
11 devices--and--providing--training--in-the-functional-use-of  
12 assistive--technology--and--upper--extremity--orthotic--or  
13 prosthetic--devices SPLINTS OR SELECTIVE ADAPTIVE EQUIPMENT  
14 AND TRAINING IN THE USE OF UPPER EXTREMITY PROSTHETICS OR  
15 UPPER EXTREMITY ORTHOTIC DEVICES;
- 16 (e) using-specifically-designed-crafts-and-exercises-to  
17 enhance-functional-performance providing for the development  
18 of emotional, motivational, cognitive, psychosocial, or  
19 physical components of performance;
- 20 (f) administering-and-interpreting-tests-such-as-manual  
21 muscle--and--range-of--motion--and providing assessment and  
22 evaluation, including the use of skilled observation or the  
23 administration and interpretation of standardized or  
24 nonstandardized tests and measurements to identify areas for  
25 occupational therapy services;

- 1 (g) adapting environments for the handicapped disabled,  
2 including assistive technology, such as environmental  
3 controls, wheelchair modifications, and positioning;
- 4 (h) developing feeding and swallowing skills;
- 5 (i) enhancing and assessing functional WORK performance  
6 and work readiness through exercise--range-of-motion--and  
7 use---of---ergonomic---principles OCCUPATIONAL THERAPY  
8 INTERVENTION, INCLUDING EDUCATION AND INSTRUCTION,  
9 ACTIVITIES TO INCREASE AND IMPROVE GENERAL WORK BEHAVIOR AND  
10 SKILL, JOB SITE EVALUATION, ON-THE-JOB TRAINING AND  
11 EVALUATION, DEVELOPMENT OF WORK-RELATED ACTIVITIES, AND  
12 SUPPORTED EMPLOYMENT PLACEMENT;
- 13 (j) providing neuromuscular facilitation and  
14 inhibition, including the activation, facilitation, and  
15 inhibition of muscle action, both voluntary and involuntary,  
16 through the use of appropriate sensory stimulation,  
17 including vibration or brushing, to evoke a desired muscular  
18 response;
- 19 (k) employing physical agent modalities as defined in  
20 this section; and
- 21 (l) promoting health and wellness.
- 22 †5†(6) "Occupational therapy aide" means a person who  
23 assists in the practice of occupational therapy under the  
24 direct supervision of an occupational therapist or  
25 occupational therapy assistant and whose activities require

an understanding of occupational therapy but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.

~~(6) "Occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under this chapter, who works under the general supervision of an occupational therapist in accordance with the provisions of the Essentials for an Approved Educational Program for the Occupational Therapy Assistant, published by the American occupational therapy association, as it read on October 17, 1985.~~

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

(8) "Physical agent modalities" means those modalities that produce a response in soft tissue through the use of light, water, temperature, sound, or electricity. Physical agent modalities are characterized as adjunctive methods used in conjunction with or in immediate preparation for patient involvement in purposeful activity. Superficial physical agent modalities include hot packs, cold packs,

ice, fluidotherapy, paraffin, water, and other commercially available superficial heating and cooling devices. Use of superficial physical agent modalities is limited to the shoulder, arm, elbow, forearm, wrist, and hand and is subject to the provisions of [section 2]. Use of sound and electrical physical agent modality devices is limited to the elbow, forearm, wrist, and hand and is subject to the provisions of [section 3]. (Terminates July 1, 1993--sec. 3, Ch. 35, L. 1991.)

37-24-103. (Effective July 1, 1993) Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

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(2) "Certified occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under this chapter, who works under the general supervision of an occupational therapist in accordance with the provisions of the Essentials for an Approved Educational Program for the Occupational Therapy Assistant, published by the American occupational therapy association and adopted by the board.

~~(2)(3)~~ "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

~~(3)(4)~~ "Occupational therapist" means a person licensed

1 to practice occupational therapy under this chapter.

2 ~~(4)~~(5) "Occupational therapy" means the use of  
3 purposeful activity with--an and interventions to achieve  
4 functional outcomes to maximize the independence and the  
5 maintenance of health of an individual who is limited by  
6 physical injury or illness, psychosocial dysfunction, mental  
7 illness, developmental or learning disability, or the aging  
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9 condition in--order--to--maximize---independence,---prevent  
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12 Occupational therapy services may be provided individually,  
13 in groups, or through social systems. Specific--occupational  
14 Occupational therapy services interventions include but are  
15 not limited to:

16 (a) teaching daily living skills;

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

19 (c) developing play skills and--prevocational and  
20 leisure capacities and enhancing educational performance  
21 skills;

22 (d) designing, fabricating, or applying splints--or  
23 selective--adaptive--equipment--and--training--in-the-use-of  
24 upper-extremity--prosthetics--or--upper--extremity--orthotic  
25 devices rehabilitative-technology,--such-as-selected-orthotic

1 ~~devices,--and--providing--training--in-the-functional-use-of~~  
2 ~~assistive-technology,--upper-extremity-orthotic-or-prosthetic~~  
3 ~~devices~~ SPLINTS OR SELECTIVE ADAPTIVE EQUIPMENT AND TRAINING  
4 IN THE USE OF UPPER EXTREMITY PROSTHETICS OR UPPER EXTREMITY  
5 ORTHOTIC DEVICES;

6 (e) ~~using-specifically-designed-crafts-and-exercises-to~~  
7 ~~enhance-functional-performance~~ providing for the development  
8 of emotional, motivational, cognitive, PSYCHOSOCIAL, or  
9 physical components of performance;

10 (f) ~~administering-and-interpreting-tests-such-as-manual~~  
11 ~~muscle-and-range-of-motion,--and~~ providing assessment and  
12 evaluation, including the use of skilled observation or the  
13 administration and interpretation of standardized or  
14 nonstandardized tests and measurements to identify areas for  
15 occupational therapy services;

16 (g) adapting environments for the handicapped disabled,  
17 including assistive technology, such as environmental  
18 controls, wheelchair modifications, and positioning;

19 (h) developing feeding and swallowing skills;

20 (i) enhancing and assessing functional WORK performance  
21 and work readiness through exercise, range--of--motion,--and  
22 use----of----ergonomic---principles OCCUPATIONAL THERAPY  
23 INTERVENTION, INCLUDING EDUCATION AND INSTRUCTION,  
24 ACTIVITIES TO INCREASE AND IMPROVE GENERAL WORK BEHAVIOR AND  
25 SKILL, JOB SITE EVALUATION, ON-THE-JOB TRAINING AND

EVALUATION, DEVELOPMENT OF WORK-RELATED ACTIVITIES, AND  
SUPPORTED EMPLOYMENT PLACEMENT;

(j) providing neuromuscular facilitation and  
inhibition, including the activation, facilitation, and  
inhibition of muscle action, both voluntary and involuntary,  
through the use of appropriate sensory stimulation,  
including vibration or brushing, to evoke a desired muscular  
response;

(k) employing physical agent modalities as defined in  
this section; and

(l) promoting health and wellness.

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

(6) "Occupational therapy assistant" means a person  
licensed to assist in the practice of occupational therapy  
under this chapter, who works under the general supervision  
of an occupational therapist in accordance with the  
provisions of the Essentials for an Approved Educational  
Program for the Occupational Therapy Assistant, published by

the American occupational therapy association, as it read on  
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(7) "Purposeful activity" means an activity in which  
the individual is an active, voluntary participant and is  
directed toward a goal that the individual considers  
meaningful. Purposeful activities are used to evaluate,  
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function within their daily occupations.

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light, water, temperature, sound, or electricity. Physical  
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used in conjunction with or in immediate preparation for  
patient involvement in purposeful activity. Superficial  
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ice, fluidotherapy, paraffin, water, and other commercially  
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subject to the provisions of [section 2]. Use of sound and  
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elbow, forearm, wrist, and hand and is subject to the  
provisions of [section 3]."

NEW SECTION. Section 2. Use of superficial physical  
agent modalities. (1) Except as provided in subsection (2),

1 a person may not use occupational therapy techniques  
2 involving superficial physical agent modalities unless the  
3 person:

4 (a) is a licensed occupational therapist under this  
5 chapter;

6 (b) limits application of superficial agent modalities  
7 to the shoulder, arm, elbow, forearm, wrist, and hand; and

8 (c) has successfully completed 16 hours of instruction  
9 or training in superficial physical agent modalities and in  
10 documents competency, as approved by the board, in the  
11 following areas:

12 (i) principles of physics related to specific  
13 properties of light, water, temperature, sound, or  
14 electricity, as indicated by selected modalities;

15 (ii) physiological, neurophysiological, and  
16 electrophysiological changes that occur as a result of the  
17 application of selected modalities;

18 (iii) the response of normal and abnormal tissue to the  
19 application ~~or modality~~ OF SELECTED MODALITIES;

20 (iv) indications and contraindications related to the  
21 selection and application of the modality;

22 (v) guidelines for the treatment or administration of  
23 the modality within the philosophical framework of  
24 occupational therapy;

25 (vi) guidelines for educating the patient, including

1 information about risks and benefits of the occupational  
2 therapy techniques;

3 (vii) safety rules and precautions related to the  
4 selected modalities;

5 (viii) methods for documenting the effectiveness and  
6 immediate and long-term effects of treatment in relation to  
7 task-oriented activities; and

8 (ix) characteristics of and guidelines for the use of  
9 therapy equipment, including safe operation, adjustment, and  
10 care and maintenance of the equipment.

11 (2) A certified occupational therapy assistant who  
12 works under the direct supervision of an A QUALIFIED  
13 occupational therapist may apply superficial physical agent  
14 modalities to the shoulder, arm, elbow, forearm, wrist, and  
15 hand.

16 NEW SECTION. Section 3. Use of sound and electrical  
17 physical agent modalities. A person may not utilize  
18 occupational therapy techniques involving sound or  
19 electrical physical agent modality devices unless the  
20 person:

21 (1) is licensed under this chapter;

22 (2) limits application of sound and electrical physical  
23 agent modalities to the elbow, forearm, wrist, or hand TO  
24 RESTORE AND ENHANCE HAND FUNCTION; and

25 (3) (a) provides to the board documentation of

certification by the hand certification commission, inc.,  
and has successfully completed 40 hours of instruction or  
training in sound and electrical physical agent modality  
devices and in documents competency, as approved by the  
board, in the areas provided in [section 2(2) 2(1)(C)]; or

(b) has successfully completed 100 hours of instruction  
or training in sound and electrical physical agent modality  
devices and in documents competency, as approved by the  
board, in the areas provided in [section 2(2) 2(1)(C)].

NEW SECTION. **Section 4. Codification** instruction.

[Sections 2 and 3] are intended to be codified as an  
integral part of Title 37, chapter 24, part 1, and the  
provisions of Title 37, chapter 24, part 1, apply to  
[sections 2 and 3].

NEW SECTION. **Section 5. Effective date.** [This act] is

effective on passage and approval.

-End-

## SENATE BILL NO. 166

INTRODUCED BY TOWE, RYE, PRITZ, S. RICE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN DEFINITIONS RELATING TO OCCUPATIONAL THERAPY; ESTABLISHING CRITERIA FOR THE USE OF OCCUPATIONAL THERAPY TECHNIQUES; AMENDING SECTION 37-24-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

(1) "Board" means the board of occupational therapy practice established by 2-15-1859.

(2) "Certified occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under this chapter, who works under the general supervision of an occupational therapist in accordance with the provisions of the Essentials for an Approved Educational Program for the Occupational Therapy Assistant, published by the American occupational therapy association and adopted by the board.

(2)(3) "Department" means the department of commerce

provided for in Title 2, chapter 15, part 18.

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

(4)(5) "Occupational therapy" means the use of purposeful activity with--an and interventions to achieve functional outcomes to maximize the independence and the maintenance of health of an individual who is limited by physical injury or illness, psychosocial dysfunction, mental illness, developmental or learning disability, or the aging process, cognitive impairment, or an adverse environmental condition in--order--to--maximize--independence,--prevent disability,--and--maintain--health. The practice encompasses evaluation assessment, treatment, and consultation. Treatment--includes--the--use--of--superficial-heat-and-cold, including-hot-packs, cold-packs, ice, paraffin,--and--water, applied--to--the--elbow, forearm,--and--hand, vibration-and brushing,--treatment-of-oral-motor-conditions,--and-the-use-of therapeutic-devices-limited-to-the-elbow, forearm,--and--hand

THERE ARE NO CHANGES IN THIS BILL  
AND WILL NOT BE REPRINTED. PLEASE  
REFER TO YELLOW COPY FOR COMPLETE TEXT.



## SENATE BILL NO. 166

INTRODUCED BY TOWE, RYE, FRITZ, S. RICE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN DEFINITIONS RELATING TO OCCUPATIONAL THERAPY; ESTABLISHING CRITERIA FOR THE USE OF OCCUPATIONAL THERAPY TECHNIQUES; AMENDING SECTION 37-24-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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(2) "Certified occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under this chapter, who works under the general supervision of an occupational therapist in accordance with the provisions of the Essentials for an Approved Educational Program for the Occupational Therapy Assistant, published by the American occupational therapy association and adopted by the board.

(3) "Department" means the department of commerce

provided for in Title 2, chapter 15, part 18.

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

(5) "Occupational therapy" means the use of purposeful activity with--an and interventions to achieve functional outcomes to maximize the independence and the maintenance of health of an individual who is limited by physical injury or illness, psychosocial dysfunction, mental illness, developmental or learning disability, or the aging process, cognitive impairment, or an adverse environmental condition in--order--to--maximize---independence---prevent disability---and--maintain--health. The practice encompasses evaluation assessment, treatment, and consultation. Treatment--includes--the--use--of--superficial--heat--and--cold, including--hot--packs,--cold--packs,--ice,--paraffin,--and--water, applied--to--the--elbow,--forearm,--and--hand,--vibration--and brushing,--treatment--of--oral--motor--conditions,--and--the--use--of therapeutic--devices--limited--to--the--elbow,--forearm,--and--hand that--the--board--approves--consistent--with--the--basic--education requirements--for--professional--licensure--under--this--chapter. Treatment--is--limited--to--procedures--in--preparation--for--or--in conjunction--with--purposeful--activity. Occupational therapy services may be provided individually, in groups, or through social systems. Specific occupational Occupational therapy services interventions include but are not limited to:

- 1 (a) teaching daily living skills;
- 2 (b) developing perceptual-motor skills and sensory
- 3 integrative functioning;
- 4 (c) developing play skills and--prevocational and
- 5 leisure capacities and enhancing educational performance
- 6 skills;
- 7 (d) designing, fabricating, or applying splints--or
- 8 selective--adaptive--equipment--and--training--in-the-use-of
- 9 upper-extremity--prosthetics--or--upper--extremity--orthotic
- 10 devices rehabilitative technology, such as selected orthotic
- 11 devices,--and--providing--training--in-the-functional-use-of
- 12 assistive--technology--and--upper--extremity--orthotic--or
- 13 prosthetic--devices SPLINTS OR SELECTIVE ADAPTIVE EQUIPMENT
- 14 AND TRAINING IN THE USE OF UPPER EXTREMITY PROSTHETICS OR
- 15 UPPER EXTREMITY ORTHOTIC DEVICES;
- 16 (e) using specifically designed crafts and exercises to
- 17 enhance functional performance providing for the development
- 18 of emotional, motivational, cognitive, psychosocial, or
- 19 physical components of performance;
- 20 (f) administering and interpreting tests such as manual
- 21 muscle--and--range--of--motion; and providing assessment and
- 22 evaluation, including the use of skilled observation or the
- 23 administration and interpretation of standardized or
- 24 nonstandardized tests and measurements to identify areas for
- 25 occupational therapy services;

- 1 (g) adapting environments for the handicapped disabled,
- 2 including assistive technology, such as environmental
- 3 controls, wheelchair modifications, and positioning;
- 4 (h) developing feeding and swallowing skills;
- 5 (i) enhancing and assessing functional WORK performance
- 6 and work readiness through exercise, range-of-motion, and
- 7 use---of---ergonomic---principles OCCUPATIONAL THERAPY
- 8 INTERVENTION, INCLUDING EDUCATION AND INSTRUCTION,
- 9 ACTIVITIES TO INCREASE AND IMPROVE GENERAL WORK BEHAVIOR AND
- 10 SKILL, JOB SITE EVALUATION, ON-THE-JOB TRAINING AND
- 11 EVALUATION, DEVELOPMENT OF WORK-RELATED ACTIVITIES, AND
- 12 SUPPORTED EMPLOYMENT PLACEMENT;
- 13 (j) providing neuromuscular facilitation and
- 14 inhibition, including the activation, facilitation, and
- 15 inhibition of muscle action, both voluntary and involuntary,
- 16 through the use of appropriate sensory stimulation,
- 17 including vibration or brushing, to evoke a desired muscular
- 18 response;
- 19 (k) employing physical agent modalities as defined in
- 20 this section; and
- 21 (l) promoting health and wellness.
- 22 (5)(6) "Occupational therapy aide" means a person who
- 23 assists in the practice of occupational therapy under the
- 24 direct supervision of an occupational therapist or
- 25 occupational therapy assistant and whose activities require

an understanding of occupational therapy but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.

(6) ~~"Occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under this chapter, who works under the general supervision of an occupational therapist in accordance with the provisions of the Essentials for an Approved Educational Program for the Occupational Therapy Assistant, published by the American occupational therapy association, as it read on October 17, 1985.~~

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

(8) "Physical agent modalities" means those modalities that produce a response in soft tissue through the use of light, water, temperature, sound, or electricity. Physical agent modalities are characterized as adjunctive methods used in conjunction with or in immediate preparation for patient involvement in purposeful activity. Superficial physical agent modalities include hot packs, cold packs,

ice, fluidotherapy, paraffin, water, and other commercially available superficial heating and cooling devices. Use of superficial physical agent modalities is limited to the shoulder, arm, elbow, forearm, wrist, and hand and is subject to the provisions of [section 2]. Use of sound and electrical physical agent modality devices is limited to the elbow, forearm, wrist, and hand and is subject to the provisions of [section 3]. (Terminates July 1, 1993--sec. 3, Ch. 35, L. 1991.)

37-24-103. (Effective July 1, 1993) Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Board" means the board of occupational therapy practice established by 2-15-1859.

(2) "Certified occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under this chapter, who works under the general supervision of an occupational therapist in accordance with the provisions of the Essentials for an Approved Educational Program for the Occupational Therapy Assistant, published by the American occupational therapy association and adopted by the board.

(2)(3) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(3)(4) "Occupational therapist" means a person licensed

to practice occupational therapy under this chapter.

{4}{5} "Occupational therapy" means the use of purposeful activity with--an and interventions to achieve functional outcomes to maximize the independence and the maintenance of health of an individual who is limited by physical injury or illness, psychosocial dysfunction, mental illness, developmental or learning disability, or the aging process, cognitive impairment, or an adverse environmental condition in--order--to--maximize---independence,---prevent disability,--and--maintain--health. The practice encompasses evaluation assessment, treatment, and consultation. Occupational therapy services may be provided individually, in groups, or through social systems. Specific--occupational Occupational therapy services interventions include but are not limited to:

(a) teaching daily living skills;

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

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

(d) designing, fabricating, or applying splints--or selective--adaptive--equipment--and--training--in-the-use-of upper-extremity--prosthetics--or--upper--extremity--orthotic devices rehabilitative-technology, such as selected orthotic

~~devices,--and--providing--training--in-the-functional-use-of assistive-technology, upper-extremity-orthotic-or-prosthetic devices~~ SPLINTS OR SELECTIVE ADAPTIVE EQUIPMENT AND TRAINING IN THE USE OF UPPER EXTREMITY PROSTHETICS OR UPPER EXTREMITY ORTHOTIC DEVICES;

(e) using-specifically-designed-crafts-and-exercises-to enhance-functional-performance providing for the development of emotional, motivational, cognitive, PSYCHOSOCIAL, or physical components of performance;

(f) administering-and-interpreting-tests-such-as-manual muscle-and-range-of-motion,--and providing assessment and evaluation, including the use of skilled observation or the administration and interpretation of standardized or nonstandardized tests and measurements to identify areas for occupational therapy services;

(g) adapting environments for the handicapped disabled, including assistive technology, such as environmental controls, wheelchair modifications, and positioning;

(h) developing feeding and swallowing skills;

(i) enhancing and assessing functional WORK performance and work readiness through exercise, range--of--motion,--and use----of----ergonomic---principles OCCUPATIONAL THERAPY INTERVENTION, INCLUDING EDUCATION AND INSTRUCTION, ACTIVITIES TO INCREASE AND IMPROVE GENERAL WORK BEHAVIOR AND SKILL, JOB SITE EVALUATION, ON-THE-JOB TRAINING AND

EVALUATION, DEVELOPMENT OF WORK-RELATED ACTIVITIES, AND  
SUPPORTED EMPLOYMENT PLACEMENT;

(j) providing neuromuscular facilitation and  
inhibition, including the activation, facilitation, and  
inhibition of muscle action, both voluntary and involuntary,  
through the use of appropriate sensory stimulation,  
including vibration or brushing, to evoke a desired muscular  
response;

(k) employing physical agent modalities as defined in  
this section; and

(l) promoting health and wellness.

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

(6) "Occupational therapy assistant" means a person  
licensed to assist in the practice of occupational therapy  
under this chapter, who works under the general supervision  
of an occupational therapist in accordance with the  
provisions of the Essentials for an Approved Educational  
Program for the Occupational Therapy Assistant, published by

the American occupational therapy association, as it read on  
October 17, 1985.

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

(8) "Physical agent modalities" means those modalities  
that produce a response in soft tissue through the use of  
light, water, temperature, sound, or electricity. Physical  
agent modalities are characterized as adjunctive methods  
used in conjunction with or in immediate preparation for  
patient involvement in purposeful activity. Superficial  
physical agent modalities include hot packs, cold packs,  
ice, fluidotherapy, paraffin, water, and other commercially  
available superficial heating and cooling devices. Use of  
superficial physical agent modalities is limited to the  
shoulder, arm, elbow, forearm, wrist, and hand and is  
subject to the provisions of [section 2]. Use of sound and  
electrical physical agent modality devices is limited to the  
elbow, forearm, wrist, and hand and is subject to the  
provisions of [section 3]."

NEW SECTION. Section 2. Use of superficial physical  
agent modalities. (1) Except as provided in subsection (2),

1 a person may not use occupational therapy techniques  
2 involving superficial physical agent modalities unless the  
3 person:

4 (a) is a licensed occupational therapist under this  
5 chapter;

6 (b) limits application of superficial agent modalities  
7 to the shoulder, arm, elbow, forearm, wrist, and hand; and

8 (c) has successfully completed 16 hours of instruction  
9 or training in superficial physical agent modalities and in  
10 documents competency, as approved by the board, in the  
11 following areas:

12 (i) principles of physics related to specific  
13 properties of light, water, temperature, sound, or  
14 electricity, as indicated by selected modalities;

15 (ii) physiological, neurophysiological, and  
16 electrophysiological changes that occur as a result of the  
17 application of selected modalities;

18 (iii) the response of normal and abnormal tissue to the  
19 application or ~~modality~~ OF SELECTED MODALITIES;

20 (iv) indications and contraindications related to the  
21 selection and application of the modality;

22 (v) guidelines for the treatment or administration of  
23 the modality within the philosophical framework of  
24 occupational therapy;

25 (vi) guidelines for educating the patient, including

1 information about risks and benefits of the occupational  
2 therapy techniques;

3 (vii) safety rules and precautions related to the  
4 selected modalities;

5 (viii) methods for documenting the effectiveness and  
6 immediate and long-term effects of treatment in relation to  
7 task-oriented activities; and

8 (ix) characteristics of and guidelines for the use of  
9 therapy equipment, including safe operation, adjustment, and  
10 care and maintenance of the equipment.

11 (2) A certified occupational therapy assistant who  
12 works under the direct supervision of an A QUALIFIED  
13 occupational therapist may apply superficial physical agent  
14 modalities to the shoulder, arm, elbow, forearm, wrist, and  
15 hand.

16 NEW SECTION. Section 3. Use of sound and electrical  
17 physical agent modalities. A person may not utilize  
18 occupational therapy techniques involving sound or  
19 electrical physical agent modality devices unless the  
20 person:

21 (1) is licensed under this chapter;

22 (2) limits application of sound and electrical physical  
23 agent modalities to the elbow, forearm, wrist, or hand TO  
24 RESTORE AND ENHANCE HAND FUNCTION; and

25 (3) (a) provides to the board documentation of

1 certification by the hand certification commission, inc.,  
2 and has successfully completed 40 hours of instruction or  
3 training in sound and electrical physical agent modality  
4 devices and in documents competency, as approved by the  
5 board, in the areas provided in [section 2(2) 2(1)(C)]; or

6 (b) has successfully completed 100 hours of instruction  
7 or training in sound and electrical physical agent modality  
8 devices and in documents competency, as approved by the  
9 board, in the areas provided in [section 2(2) 2(1)(C)].

10 NEW SECTION. **Section 4.** Codification instruction.  
11 [Sections 2 and 3] are intended to be codified as an  
12 integral part of Title 37, chapter 24, part 1, and the  
13 provisions of Title 37, chapter 24, part 1, apply to  
14 [sections 2 and 3].

15 NEW SECTION. **Section 5.** Effective date. [This act] is  
16 effective on passage and approval.

-End-