

HOUSE BILL NO. 438

INTRODUCED BY E. BUTTREY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A BOARD OF PHYSICAL, REHABILITATIVE,
5 AND DEVELOPMENTAL HEALTH CARE PROFESSIONALS; GENERALLY REVISING PROFESSIONAL AND
6 OCCUPATIONAL LICENSING PROVISIONS AND TRANSFERRING AUTHORITY FOR ATHLETIC
7 TRAINERS, OCCUPATIONAL THERAPY PRACTITIONERS, PHYSICAL THERAPY EXAMINERS, AND
8 SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS TO THE BOARD OF PHYSICAL,
9 REHABILITATIVE, AND DEVELOPMENTAL HEALTH CARE PROFESSIONALS; PROVIDING DEFINITIONS;
10 PROVIDING FOR STANDARD ORGANIZATIONAL DUTIES FOR THE BOARD; PROVIDING RULEMAKING
11 AUTHORITY; AMENDING SECTIONS 37-11-101, 37-15-102, 37-24-103, 37-36-101, AND 37-36-201, MCA;
12 REPEALING SECTIONS 2-15-1739, 2-15-1748, 2-15-1749, 2-15-1771, 37-11-201, 37-11-203, 37-11-307, 37-
13 15-201, 37-15-202, 37-15-203, 37-24-102, 37-24-201, 37-24-202, 37-24-203, 37-24-310, 37-36-102, AND 37-
14 36-202, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

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NEW SECTION. Section 1. Board of physical, rehabilitative, and developmental health care

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professionals. (1) In accordance with 37-1-123, there is a board of physical, rehabilitative, and developmental health care professionals.

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(2) The board consists of 12 members:

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(a) two athletic trainers;

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(b) two occupational therapists;

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(c) four physical therapists;

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(d) two speech-language pathologists;

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(e) one audiologist; and

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(f) one public member.

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(3) The board is allocated to the department as prescribed in 2-15-121.

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2 **NEW SECTION. Section 2. Purpose.** The legislature declares it to be a policy of this state that in
 3 order to help ensure the availability of services and protect the health, safety, and welfare of the citizens of this
 4 state, it is a matter of public interest and concern that the health professions regulated by the board warrant and
 5 receive the confidence of the public and that only qualified persons be permitted to practice in each respective
 6 field from within or outside of the state and engage with clients located within the state.

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8 **NEW SECTION. Section 3. Definitions.** As used in this chapter, unless the context requires
 9 otherwise, the following definitions apply:

10 (1) "Board" means the board of physical, rehabilitative, and developmental health care
 11 professionals provided for in [section 1].

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

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15 **NEW SECTION. Section 4. Duties of board -- rulemaking authority.** (1) The board shall:

16 (a) administer, coordinate, and enforce the provisions of Title 37, chapters 11, 15, 24, and 36, and
 17 [sections 2 through 4];

18 (b) for each profession licensed under the chapters listed in subsection (1)(a), establish criteria for
 19 licensure;

20 (c) for each chapter listed under subsection (1)(a), adopt fees in accordance with 37-1-134 for the
 21 following:

22 (i) applications for licensure;

23 (ii) examinations;

24 (iii) initial license issuance; and

25 (iv) license renewal; and

26 (d) authorize the department to issue and renew licenses to qualified applicants.

27 (2) The board may adopt rules necessary to implement the provisions of chapters 11, 15, 24, and
 28 36, and [sections 2 through 4].

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Section 5. Section 37-11-101, MCA, is amended to read:

"37-11-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Board" means the board of ~~physical therapy examiners~~ physical, rehabilitative, and developmental health care professionals provided for in ~~2-15-1748~~ [section 1].

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

(3) "Hearing" means the adjudicative proceeding concerning the issuance, denial, suspension, or revocation of a license, after which the appropriate action toward an applicant or licensee is to be determined by the board.

(4) "Physical therapist" or "physiotherapist" means a person who practices physical therapy.

(5) "Physical therapist assistant" or "assistant" means a person who:

(a) is a graduate of an accredited physical therapist assistant curriculum approved by the board;

(b) assists a physical therapist in the practice of physical therapy but who may not make evaluations or design treatment plans; and

(c) is supervised by a licensed physical therapist as described in 37-11-105.

(6) "Physical therapist assistant student" means a person who is enrolled in an accredited physical therapist assistant curriculum and who as part of the clinical and educational training is practicing under the supervision of a licensed physical therapist as described in 37-11-105.

(7) "Physical therapy" means the evaluation, treatment, and instruction of human beings, in person or through telehealth, to detect, assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction and pain, injury, and any bodily or mental conditions by the use of therapeutic exercise, prescribed topical medications, and rehabilitative procedures for the purpose of preventing, correcting, or alleviating a physical or mental disability.

(8) "Physical therapy aide" or "aide" means a person who aids in the practice of physical therapy, whose activities require on-the-job training, and who is supervised by a licensed physical therapist or a licensed physical therapist assistant as described in 37-11-105.

1 (9) "Physical therapy practitioner", "physical therapy specialist", "physiotherapy practitioner", or
 2 "manual therapists" are equivalent terms, and any derivation of the phrases or any letters implying the phrases
 3 are equivalent terms. Any reference to any one of the terms in this chapter includes the others but does not
 4 include certified corrective therapists or massage therapists.

5 (10) "Physical therapy student" or "physical therapy intern" means an individual who is enrolled in
 6 an accredited physical therapy curriculum, who, as part of the individual's professional, educational, and clinical
 7 training, is practicing in a physical therapy setting, and who is supervised by a licensed physical therapist as
 8 described in 37-11-105.

9 (11) "Telehealth" has the meaning provided in 37-2-305.

10 (12) "Topical medications" means medications applied locally to the skin and includes only
 11 medications listed in 37-11-106(2) for which a prescription is required under state or federal law."
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13 **Section 6.** Section 37-15-102, MCA, is amended to read:

14 **"37-15-102. Definitions.** As used in this chapter, the following definitions apply:

15 (1) "Audiologist" means a person who practices audiology and who meets the qualifications set
 16 forth in this chapter. A person represents to the public that the person is an audiologist by incorporating in any
 17 title or description of services or functions that the person directly or indirectly performs the words "audiologist",
 18 "audiology", "audiometrist", "audiometry", "audiological", "audiometrics", "hearing clinician", "hearing clinic",
 19 "hearing therapist", "hearing therapy", "hearing center", "hearing aid audiologist", or any similar title or
 20 description of services.

21 (2) "Audiology assistant" means any person meeting the minimum requirements established by the
 22 board of ~~speech-language pathologists and audiologists-physical, rehabilitative, and developmental health care~~
 23 professionals who works directly under the supervision of a licensed audiologist.

24 (3) "Board" means the board of ~~speech-language pathologists and audiologists-physical,~~
 25 rehabilitative, and developmental health care professionals provided for in ~~2-15-1739~~ [section 1].

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

28 (5) "Facilitator" means a trained individual who is physically present with the patient and facilitates

1 telehealth at the direction of an audiologist or speech-language pathologist. A facilitator may be but is not
2 limited to an audiology assistant or a speech-language pathology assistant.

3 (6) "Over-the-counter hearing aid" has the definition specified in 21 CFR 800.30 in effect on
4 January 1, 2023.

5 (7) "Patient" means a consumer of services from an audiologist, a speech-language pathologist, a
6 speech-language pathology assistant, or an audiology assistant, including a consumer of those services
7 provided through telehealth.

8 (8) "Practice of audiology" means nonmedical diagnosis, assessment, and treatment services
9 relating to auditory and vestibular disorders as provided by board rule and includes the ordering, selling,
10 dispensing, and fitting of over-the-counter hearing aids and prescription hearing aids.

11 (9) "Practice of speech-language pathology" means nonmedical diagnosis, assessment, and
12 treatment services relating to speech-language pathology as provided by board rule.

13 (10) "Prescription hearing aid" has the definition specified in 21 CFR 801.422 in effect on January 1,
14 2023. The term does not include an over-the-counter hearing aid.

15 (11) "Speech-language pathologist" means a person who practices speech-language pathology and
16 who meets the qualifications set forth in this chapter. A person represents to the public that the person is a
17 speech-language pathologist by incorporating in any title or description of services or functions that the person
18 directly or indirectly performs the words "speech pathologist", "speech pathology", "speech correctionist",
19 "speech corrections", "speech therapist", "speech therapy", "speech clinician", "speech clinic", "language
20 pathologist", "language pathology", "voice therapist", "voice therapy", "voice pathologist", "voice pathology",
21 "logopedist", "logopedics", "communicologist", "communicology", "aphasiologist", "aphasiology", "phoniatriest",
22 "language therapist", "language clinician", or any similar title or description of services or functions.

23 (12) "Speech-language pathology assistant" means a person meeting the minimum requirements
24 established by the board who works directly under the supervision of a licensed speech-language pathologist.

25 (13) "Telehealth" has the meaning provided in 37-2-305."
26

27 **Section 7.** Section 37-24-103, MCA, is amended to read:

28 **"37-24-103. Definitions.** As used in this chapter, unless the context requires otherwise, the following

1 definitions apply:

2 (1) "Board" means the board of ~~occupational therapy practice~~ physical, rehabilitative, and
3 developmental health care professionals ~~established by 2-15-1749~~ provided for in [section 1].

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

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

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

12 (5) "Occupational therapy" means the therapeutic use of purposeful goal-directed activities and
13 interventions to achieve functional outcomes to maximize the independence and the maintenance of health of
14 an individual who is limited by disease or disorders, impairments, activity limitations, or participation restrictions
15 that interfere with the individual's ability to function independently in daily life roles. The practice encompasses
16 evaluation, assessment, treatment, consultation, remediation, and restoration of performance abilities that are
17 limited due to impairment in biological, physiological, psychological, or neurological processes. Occupational
18 therapy services may be provided individually, in groups, or through social systems. Occupational therapy
19 interventions include but are not limited to:

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

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

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

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

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

28 (f) providing assessment and evaluation, including the use of skilled observation or the

1 administration and interpretation of standardized or nonstandardized tests and measurements to identify areas
2 for occupational therapy services;

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

5 (h) developing feeding and swallowing skills;

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

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

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

15 (l) promoting health and wellness;

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

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

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

22 (p) use of prescribed topical medications.

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

28 (7) "Occupational therapy assistant" means a person who is licensed to assist in the practice of

1 occupational therapy under this chapter and who works under the general supervision of an occupational
2 therapist.

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

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

14 (10) "Topical medications" means medications applied locally to the skin and includes only
15 medications listed in 37-24-108(2) for which a prescription is required under state or federal law."
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17 **Section 8.** Section 37-36-101, MCA, is amended to read:

18 **"37-36-101. Definitions.** As used in this chapter, the following definitions apply:

19 (1) "Athlete" means a person who participates in an athletic activity that involves exercises, sports,
20 or games requiring physical strength, agility, flexibility, range of motion, speed, or stamina and the exercises,
21 sports, or games are of the type conducted in association with an educational institution or a professional,
22 amateur, or recreational sports club or organization.

23 (2) "Athletic injury" means a physical injury received by an athlete.

24 (3) "Athletic trainer" means an individual who is licensed to practice athletic training.

25 (4) "Athletic training" means the practice of prevention, recognition, assessment, management,
26 treatment, disposition, and reconditioning of athletic injuries. The term includes the following:

27 (a) the use of heat, light, sound, cold, electricity, exercise, reconditioning, or mechanical devices
28 related to the care and conditioning of athletes; and

1 (b) the education and counseling of the public on matters related to athletic training.

2 (5) "Board" means the board of ~~athletic trainers~~ physical, rehabilitative, and developmental health
3 care professionals provided for in ~~2-15-1774~~ [section 1].

4 (6) "Department" means the department of labor and industry provided for in 2-15-1701.

5 (7) "Licensee" means an individual licensed under this chapter.
6

7 **Section 9.** Section 37-36-201, MCA, is amended to read:

8 **"37-36-201. Qualifications -- temporary license -- exemption from examination.** (1) Applicants for
9 licensure as an athletic trainer shall:

10 (a) satisfactorily complete an application and an examination prescribed by the department in
11 accordance with rules adopted by the board;

12 ~~(b) pay application, examination, and licensure fees established by the board;~~

13 ~~(c)~~ (b) provide documentation that the applicant has received ~~at least a baccalaureate degree from a~~
14 ~~postsecondary institution that meets the academic standards for athletic trainers established by the national~~
15 ~~athletic trainers' association board of certification; a degree in athletic training from a commission on~~
16 ~~accreditation of athletic training education accredited program, or its successor agency, or a comparable~~
17 ~~degree accepted by the board of certification for the athletic trainer, or its successor agency; and~~

18 ~~(d)~~ (c) provide the board with letters of recommendation from at least two clinical supervisors familiar
19 with the applicant's clinical training and other documentation by which the board may determine that an
20 applicant has not had a criminal conviction or disciplinary action taken against the applicant by a board or a
21 licensing agency in another state or territory of the United States that may have a direct bearing on the
22 applicant's ability to practice athletic training competently.

23 (2) (a) The board may issue a temporary license to an applicant who:

24 (i) meets the qualifications in subsections ~~(1)(b) through (1)(d)~~ and (1)(c) but has not yet met the
25 examination requirement in subsection (1)(a); or

26 (ii) has a valid license from another state or certification as provided in subsection (3)(a) or (3)(b).

27 (b) A temporary license issued under this section is valid after the date of issuance for 90 days or
28 until the board acts on the person's license application, whichever is earlier.

1 (3) An applicant may be exempted from the examination requirement in subsection (1)(a) if the
2 applicant:

3 (a) has a current, valid license to practice athletic training in another state and that state's
4 standards, as determined by the board, are at least equal to the standards for licensure in this state; or

5 (b) is certified as an athletic trainer by an organization recognized by the national commission for
6 certifying agencies."
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8 **NEW SECTION. Section 10. Repealer.** The following sections of the Montana Code Annotated are
9 repealed:

- 10 2-15-1739. Board of speech-language pathologists and audiologists.
- 11 2-15-1748. Board of physical therapy examiners.
- 12 2-15-1749. Board of occupational therapy practice.
- 13 2-15-1771. Board of athletic trainers.
- 14 37-11-201. General powers -- rulemaking.
- 15 37-11-203. Travel expense -- deposit of fees.
- 16 37-11-307. Applicants licensed in other states.
- 17 37-15-201. Meetings.
- 18 37-15-202. Powers and duties of board and department.
- 19 37-15-203. Compensation and expenses.
- 20 37-24-102. Purpose.
- 21 37-24-201. Organization -- general rulemaking power.
- 22 37-24-202. Powers and duties of board.
- 23 37-24-203. Compensation and expenses.
- 24 37-24-310. Fees.
- 25 37-36-102. Board duties -- rulemaking.
- 26 37-36-202. License -- revocation.

27

28 **NEW SECTION. Section 11. Name change -- directions to code commissioner.** Whenever a

1 reference to the following boards appears in legislation enacted by the 2025 legislature, the code commissioner
2 is directed to change it to a reference to the board of physical, rehabilitative, and developmental health care
3 professionals:

- 4 (1) the board of athletic trainers;
- 5 (2) the board of occupational therapy practice;
- 6 (3) the board of physical therapy examiners; and
- 7 (4) the board of speech-language pathologists and audiologists.

8
9 **NEW SECTION. Section 12. Codification instruction.** (1) [Section 1] is intended to be codified as
10 an integral part of Title 2, chapter 15, part 17, and the provisions of Title 2, chapter 15, part 17, apply to [section
11 1].

12 (2) [Sections 2 through 4] are intended to be codified as a new chapter in Title 37, and the
13 provisions of Title 37 apply to [sections 2 through 4].

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15 **NEW SECTION. Section 13. Saving clause.** [This act] does not affect rights and duties that
16 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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18 **NEW SECTION. Section 14. Severability.** If a part of [this act] is invalid, all valid parts that are
19 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
20 the part remains in effect in all valid applications that are severable from the invalid applications.

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22 **NEW SECTION. Section 15. Effective date.** [This act] is effective January 1, 2026.

23 - END -