

Committee Report

CONSENT CALENDAR

February 22, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Executive Departments and Administration to which was referred HB 369-FN,

AN ACT relative to the use of physical agent modalities by occupational therapists. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Carol McGuire

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Executive Departments and Administration
Bill Number:	HB 369-FN
Title:	relative to the use of physical agent modalities by occupational therapists.
Date:	February 22, 2021
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2021-0185h

STATEMENT OF INTENT

This bill, a request of the Office of Professional Licensure and Certification, eliminates a redundant board-issued certificate for the use of physical agent modalities. The committee amendment, a request of the Board of Occupational Therapists, allows the board to write rules about physical agent modalities, and expands occupational therapists' scope of practice to the full range of their training. There is no cost impact as the certificate has no fee.

Vote 19-0.

Rep. Carol McGuire
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Executive Departments and Administration

HB 369-FN, relative to the use of physical agent modalities by occupational therapists. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Carol McGuire for Executive Departments and Administration. This bill, a request of the Office of Professional Licensure and Certification, eliminates a redundant board-issued certificate for the use of physical agent modalities. The committee amendment, a request of the Board of Occupational Therapists, allows the board to write rules about physical agent modalities, and expands occupational therapists' scope of practice to the full range of their training. There is no cost impact as the certificate has no fee. **Vote 19-0.**

Amendment to HB 369-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 Occupational Therapists; Rulemaking. Amend RSA 326-C:7 to read as follows:

4 326-C:7 Rulemaking. The board shall adopt rules pursuant to RSA 541-A specifying:

5 I. ~~[The physical agent modalities which may be applied as an adjunct to, or in preparation~~
6 ~~for, engagement in purposeful activities and occupations;~~

7 ~~II. The eligibility requirements to be met by licensees seeking a certificate authorizing the~~
8 ~~application of physical agent modalities;~~

9 ~~III. The documentation required by the board for the issuance of a certificate authorizing a~~
10 ~~licensee to apply physical agent modalities;~~

11 ~~IV.] **The requirements and use of occupational therapy techniques involving**~~
12 ~~**ultrasound or electrical physical agent modalities by occupational therapy practitioners;**~~

13 **II.** The requirements for supervision of licensed occupational therapy assistants by licensed
14 occupational therapists; and

15 ~~V.] **III.** The use and supervision of non-licensed persons providing supportive services to~~
16 ~~licensed occupational therapists or occupational therapy assistants.~~

17 2 Occupational Therapists; Physical Agent Modalities. RSA 326-C:8 is repealed and reenacted
18 to read as follows:

19 326-C:8 Physical Agent Modalities.

20 I. An occupational therapist who is licensed under this chapter and who has been trained
21 may utilize occupational therapy techniques involving ultrasound or electrical physical agent
22 modality devices.

23 II. An occupational therapy assistant who is licensed under this chapter may apply
24 ultrasound or electrical physical agent modality devices if he or she:

25 (a) Works under the supervision of a qualified occupational therapist who is licensed
26 under this chapter; and

27 (b) Has been trained to utilize occupational therapy techniques involving ultrasound or
28 electrical agent modality devices.

29 3 Effective Date. This act shall take effect 60 days after its passage.

Amendment to HB 369-FN
- Page 2 -

2021-0185h

AMENDED ANALYSIS

This bill clarifies the use of ultrasound and electrical physical agent modalities by occupational therapists and occupational therapy assistants.

This bill is a request of the office of professional licensure and certification.

Archived: Tuesday, April 20, 2021 9:30:56 AM
From: [Miriam Simmons](#)
Sent: Tuesday, April 20, 2021 8:59:07 AM
To: [Miriam Simmons](#)
Subject: HB 369 CR Rep McGuire
Response requested: No
Importance: Normal

From: Carol McGuire <mcguire4house@gmail.com>
Sent: Saturday, February 27, 2021 3:44 PM
To: [Miriam Simmons <miriam.simmons@leg.state.nh.us>](mailto:miriam.simmons@leg.state.nh.us); [Pam Smarling <Pam.Smarling@leg.state.nh.us>](mailto:Pam.Smarling@leg.state.nh.us)
Subject: my blurbs

HB 369, relative to the use of physical agent modalities by occupational therapists

OTP/A, 19-0 consent

This bill, a request of the office of professional licensure and certification, eliminates a redundant board-issued certificate for the use of these techniques. The committee amendment, a request of the board of occupational therapists, allows the board to write rules about physical agent modalities, and expands occupational therapists' scope of practice to the full range of their training. There is no cost impact as the certificate had no fee.

Carol McGuire for the committee

Voting Sheets

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 369-FN

BILL TITLE: relative to the use of physical agent modalities by occupational therapists.

DATE: February 22, 2021

LOB ROOM: Remote / Hybrid

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. McGuire Seconded by Rep. Alliegro AM Vote: 19-0

Amendment # 2021-0185h

Moved by Rep. McGuire Seconded by Rep. Alliegro Vote: 19-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep John Sytek, Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS & ADMINISTRATION

EXECUTIVE SESSION on Bill # HB 369

BILL TITLE: RELATIVE TO THE USE OF PHYSICAL AGENT MODALITIES BY OCCUPATIONAL THERAPISTS

DATE: 2-22-21

LOB ROOM: 306-308

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # 0185H (if offered)
- Interim Study (2nd year)

Moved by Rep. M^cGUIRE Seconded by Rep. ALLIEGRO Vote: 19-0

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. M^cGUIRE Seconded by Rep. ALLIEGRO Vote: 19-0

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

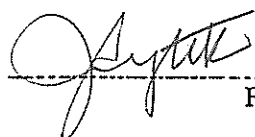
MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: X YES _____ NO

Minority Report? _____ Yes _____ No If yes, author, Rep: _____ Motion _____

Respectfully submitted: 
Rep. John Sytek, Clerk



2021 SESSION

Executive Departments and Administration

Bill #: HB 369 Motion: OTP/A AM #: CR54 Exec Session Date: 2-22-21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
McGuire, Carol M. Chairman	X		
Roy, Terry Vice Chairman	X		
Sytek, John Clerk	X		
Pearson, Stephen C.	X		
Yakubovich, Michael	X		
Lekas, Tony	X		
Alliegro, Mark C.	X		
Bailey, Glenn	X		
Lanzara, Tom E.	X		
Santonastaso, Matthew	X		
Goley, Jeffrey P.	X		
Schuett, Dianne E.	X		
Judy, Jean L.	X		
Schmidt, Peter B.	X		
Schultz, Kristina M.	X		
Fellows, Sallie D.	X		
Fontneau, Timothy J.	X		
Grote, Jaci L.	X		
O'Brien, Michael B.	X		
TOTAL VOTE:			

19-0



2021 SESSION

Executive Departments and Administration

 Bill #: HB 369 Motion: ADOPT AMEND AM #: 0185H Exec Session Date: 2-22-21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
McGuire, Carol M. Chairman	X		
Roy, Terry Vice Chairman	X		
Sytek, John Clerk	X		
Pearson, Stephen C.	X		
Yakubovich, Michael	X		
Lekas, Tony	X		
Alliegro, Mark C.	X		
Bailey, Glenn	X		
Lanzara, Tom E.	X		
Santonastaso, Matthew	X		
Goley, Jeffrey P.	X		
Schuett, Dianne E.	X		
Jeudy, Jean L.	X		
Schmidt, Peter B.	X		
Schultz, Kristina M.	X		
Fellows, Sallie D.	X		
Fontneau, Timothy J.	X		
Grote, Jaci L.	X		
O'Brien, Michael B.	X		
TOTAL VOTE:			

19-0

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2021-0185h

AMENDED ANALYSIS

This bill clarifies the use of ultrasound and electrical physical agent modalities by occupational therapists and occupational therapy assistants.

This bill is a request of the office of professional licensure and certification.

UNAPPROVED

Hearing Minutes

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 369-FN

BILL TITLE: relative to the use of physical agent modalities by occupational therapists.

DATE: February 4, 2021

LOB ROOM: LOB Hybrid

Time Public Hearing (opened at 11:50/recessed immediately;

Called to Order: 3:35 p.m.

Time Adjourned: 3:50 p.m.

(please circle if present)

ALL PRESENT EXCEPT BAILEY
Committee Members: Reps. McGuire, Roy, Sytek, S. Pearson, Yakubovich, Lekas, Alliegro, Bailey, Lanzara, Santonastaso, P. Schmidt, Schultz, Goley, Jevdy, Schuett, Fellows, Fontneau, Grote, M. O'Brien
LABRANCHE

Bill Sponsors:

Rep. McGuire

Rep. M. Pearson

Sen. Reagan

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

HB 369 relative to the use of physical agent modalities by occupational therapists.
(opened at 11:50/recessed immediately; reopened at 3:35, closed at 3:50)

Rep Roy opened the hearing and recognized

Rep. McGuire, bill sponsor, who introduced the bill and said it was a request of OPLC.

She said that when the Occupational Therapist Governing Board reviewed the bill, it came up with an amendment (0185h) that replaced the bill. She deferred questions to the next speaker.

Tom Broderick, legal counsel for the OPLC, said that this bill affects both the OT Board and the OPLC and spoke only from the OPLC perspective.

He said that at present, OT's and OT Assistants need additional certification to perform "physical agent modalities" (PAMS). This bill would remove the requirement for the additional certification but would still protect the public.

- The OPLC would retain some rule making authority.
- The amendment would clarify the Board's rule making authority.
- This bill was tabled last year due to COVID.

Sarah Hinkley, OT Board member, spoke in support.

She described the benefits of PAMS and said there were only about a dozen states that require additional certification. *The Board felt* that there was adequate protection of the public for practicing PAMS under the OT license and *voted unanimously to endorse the amended bill.*

Public hearing adjourned at 3:50 p.m.

Respectfully submitted by,

Rep. John Sytek

Committee Clerk

HB 369 relative to the use of physical agent modalities by occupational therapists. (opened at 11:50/recessed immediately; reopened at 3:35, closed at 3:50)

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House Remote Testify

Executive Departments and Administration Committee Testify List for Bill HB369 on 2
 Support: 3 Oppose: 1 Neutral: 0 Total to Testify: 2

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>§</u>
Kelley, Tina	tina.m.kelley@oplcnh.gov	603.387.4524	State Agency Staff	Office of Professional Licensure and Certification	Support	Yes (5m)	2
Broderick, Tom	thomas.r.broderick@oplcnh.gov	2713103	State Agency Staff	Office of Professional Licensure and Certification	Support	Yes (3m)	2
Lekas, Alicia	rep.alicia.lekas@gmail.com	603.881.8960	An Elected Official	Hillsborough 37	Support	No	2
Rathbun, Eric	ericrathbun@gmail.com	860.912.3751	A Member of the Public	Myself	Oppose	No	2

Testimony

Archived: Wednesday, April 7, 2021 12:13:48 PM
From: [Olivia Freeman](#)
Sent: Tuesday, February 2, 2021 12:17:47 PM
To: [~House Executive Departments and Administration](#)
Subject: HB 369- Physical Agent Modalities and Occupational Therapy
Importance: Normal

To the members of the Executive Departments and Administration,

I am writing to provide support in favor of HB 369 (to be heard on February 4th at 10:45am) which is the removal of certification by the Occupational Therapy Governing board for occupational therapy practitioners to utilize the physical agent modalities (PAMs) of ultrasound and electrical stimulation. This is a bill that is unanimously supported by the New Hampshire Occupational Therapy Governing board.

Once an Occupational Therapy Practitioner (an occupational therapist, OT, and an occupational therapy assistant, OTA) has completed the training in this area through academic course work or instructional course work and has demonstrated competency in this skill, it is within the scope of practice of occupational therapy to utilize PAMs on clients as appropriate as a means of treatment or intervention when a client is experiencing limitations in their occupational performance due to factors such as neurological issues or musculoskeletal issues. The use of PAMs on a client by a trained Occupational Therapy practitioner will allow for treatments and interventions that are very client centered and will help our clients with a return to a functional level that will allow them to engage in those tasks/occupations that are meaningful and purposeful to them.

Further certification/approval for the use of PAMs by the Occupational Therapy Governing Board beyond the training that the OT or OTA has received should not be needed. This can create more work for the Occupational Therapy practitioner as they need to supply the board with paperwork and forms resulting in a potential delay of the OT and OTA utilizing PAMs as mode/method of treatment for a client that could be very beneficial and advantageous for the client's return to function. Removal of this certification may provide indeterminable cost savings associated with the elimination of staff and Board time to process the requests of this PAMs certification.

Thank you for your consideration of support for this bill.

Olivia Freeman, MBA, OTR/L
Member and Chair of the New Hampshire Occupational Therapy Governing Board

Bill as
Introduced

HB 369-FN - AS INTRODUCED

2021 SESSION

21-0136

10/08

HOUSE BILL ***369-FN***

AN ACT relative to the use of physical agent modalities by occupational therapists.

SPONSORS: Rep. McGuire, Merr. 29; Rep. M. Pearson, Rock. 34; Sen. Reagan, Dist 17

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill limits the use of ultrasound and electrical physical agent modalities by occupational therapists and occupational therapy assistants.

This bill is a request of the office of professional licensure and certification.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the use of physical agent modalities by occupational therapists.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Occupational Therapists; Rulemaking. Amend RSA 326-C:7 to read as follows:

2 326-C:7 Rulemaking. The board shall adopt rules pursuant to RSA 541-A specifying:

3 I. ~~[The physical agent modalities which may be applied as an adjunct to, or in preparation~~
4 ~~for, engagement in purposeful activities and occupations;~~

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9 IV.] The requirements for supervision of licensed occupational therapy assistants by licensed
10 occupational therapists; and

11 [V.] II. The use and supervision of non-licensed persons providing supportive services to
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17 may utilize occupational therapy techniques involving ultrasound or electrical physical agent
18 modality devices. The application of ultrasound and electrical physical agent modality devices shall
19 be limited to the shoulder, arm, elbow, forearm, wrist, or hand to restore and enhance upper
20 extremity function.

21 II. An occupational therapy assistant who is licensed under this chapter may apply
22 ultrasound or electrical physical agent modality devices if he or she:

23 (a) Works under the direct supervision of a qualified occupational therapist who is
24 licensed under this chapter;

25 (b) Has been trained to utilize occupational therapy techniques involving ultrasound or
26 electrical agent modality devices; and

27 (c) Limits the application of ultrasound and electrical physical agent modality devices to
28 the shoulder, arm, elbow, forearm, wrist, or hand to restore and enhance upper extremity function.

29 3 Effective Date. This act shall take effect 60 days after its passage.

Fiscal Note

**HB 369-FN- FISCAL NOTE
 AS INTRODUCED**

AN ACT relative to the use of physical agent modalities by occupational therapists.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Funding Source:	<input type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other -Office of Professional Licensure and Certification Fund (RSA 310-A:1-e,I(b))			

METHODOLOGY:

This bill eliminates the requirement for licensees to obtain a separate certificate to provide Physical Agent Modalities. There are no fees associated with these certificates so there is no revenue loss but there may be indeterminable cost savings associated with the elimination of staff and Board time to process the requests for certification.

It is assumed any fiscal impact would occur after July 1, 2021.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification