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Bill Analysis
Legislative Service Commission

S.B. 249

124th General Assembly
(As Introduced)

Sens. Spada, Goodman, Mumper, Hottinger, Brady, Fingerhut

BILL SUMMARY

- Allows any of the sections of the Occupational Therapy, Physical Therapy, and Athletic Trainers Board to initiate an investigation of a license holder without a complaint.
- Requires a license holder who is investigated and sanctioned to pay the cost of the investigation.
- Authorizes any of the sections of the Board to seek temporary suspension of a license without a prior hearing under certain circumstances.
- Makes other changes in the occupational therapist, physical therapist, and athletic trainer licensing laws.

CONTENT AND OPERATION

The Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board regulates the practice of occupational therapists, occupational therapy assistants, physical therapists, physical therapist assistants, and athletic trainers. The Board has three sections, the Occupational Therapy Section, Physical Therapy Section, and Athletic Trainers Section, each of which has the authority to issue licenses and impose sanctions on license holders. The bill enhances the authority of the sections to investigate alleged violations of the law by license holders, establishes a procedure for temporary license suspension without a prior hearing, and makes changes to the law governing each of the sections.

Investigations

(sec. 4755.04)

Current law authorizes the appropriate section of the Board to investigate complaints and seek injunctions pertaining to violations of the licensing law. The bill permits each of the sections to initiate investigations regarding compliance with the licensing law on its own initiation, as well as on complaints. Current law allows the sections to subpoena witnesses during investigations. The bill allows the sections to also subpoena documents in connection with investigations. The bill allows investigators to obtain copies of records and audit patient records and personnel files of license holders.

Cost of investigations

(sec. 4755.04)

The bill requires persons who are investigated and sanctioned to pay a fee in the amount of the actual cost of the investigation to the appropriate section.

Temporary suspensions

(secs. 4755.10, 4755.47, and 4755.64)

The bill authorizes each section to seek temporary suspension of a license without a prior hearing if it has reason to believe the license holder represents a clear and immediate danger to the public health and safety or the license holder has not submitted to reasonable examinations by a physician designated or approved by the section because the license holder's physical or mental condition is at issue in a disciplinary proceeding. Application for a temporary suspension must be made to the common pleas court of the county in which the license holder resides. The temporary suspension is to be in effect until the section conducts an adjudication hearing under the Administrative Procedure Act (Revised Code Chapter 119.). If a temporary suspension is granted, the section must give written notice of the suspension to the license holder by personal delivery or certified mail.

Occupational Therapy Section

Education

(sec. 4755.05)

Current law authorizes the Occupational Therapy Section of the Board to adopt rules establishing standards for approval of courses of study for licenses and

license renewals. The bill provides that the standards are for approval of courses of study relative to the practice of occupational therapy. It also authorizes the Section to adopt rules on the amount, scope, and nature of continuing education activities required for license renewal, including establishment of fees charged for administrative costs associated with review of continuing education activities.

Licensure renewal

(secs. 4755.05 and 4755.09)

Under existing law, licenses are renewed biennially by the Section. License holders with the last names beginning with the letters A through L must file a renewal application by the last day of June of each even-numbered year. Those with last names beginning with letters M through Z must file by the last day of June of each odd-numbered year. A license holder must submit an application and fee for renewal of a license. Certificates of renewal must be mailed by the first day of August of the applicable year. If a timely renewal application is not filed, the license expires unless good cause is shown that the application could not be filed on time.

The bill authorizes the Occupational Therapy Section to adopt rules establishing a schedule of deadlines for license renewal. A certificate of renewal must be mailed to each licensee in accordance with the schedule. If an application is not received by the deadline, the license expires automatically unless good cause is shown. In addition to the application and fee, the bill requires that license holders file proof of completion of continuing education requirements.

Discipline

(sec. 4755.10)

Current law permits the Occupational Therapy Section to suspend, revoke, or refuse to issue or renew a license, or to issue a reprimand to a license holder who does not comply with the licensing law or commits one of the offenses listed in the licensing law. The bill permits the Section to impose a fine in lieu of one of the sanctions already permitted.

Physical Therapy Section

Codes of ethics

(sec. 4755.41)

The bill requires the Physical Therapy Section to maintain current copies of codes of ethics of national professional associations for physical therapists and copies of standards of ethical conduct for physical therapy assistants.

Application procedures

(sec. 4755.42)

Current law requires persons who desire to practice physical therapy to file an application under oath with the Physical Therapy Section and to furnish proof of being at least 18 years of age, having good moral character, and the completion of a program of physical therapy education approved by the Section that includes certain required courses and credits.

The bill requires persons who entered an accredited physical therapy program before January 1, 2002 to follow the requirements of existing law. Persons who enter an accredited program on or after January 1, 2002 must file an application under oath with the Physical Therapy Section and furnish proof of being at least 18 years of age and of good moral character. The applicant also must submit proof of completion of one of the following:

1. 120 academic semester credits or the equivalent from a college or university recognized by the Section that includes courses approved by the Section in humanities, biological sciences, and other physical sciences;
2. An accredited program in post-baccalaureate physical therapy education that provides instruction in basic sciences, clinical sciences, and physical therapy theory and procedures that is determined sufficient by the Section.

Physical therapy examinations

(sec. 4755.43)

Existing law requires examinations for physical therapists to be held at least twice a year at times and places determined by the Physical Therapy Section. The bill eliminates the requirement that the exams be held at least twice a year.

Licensure renewal

(sec. 4755.46)

Current law provides that physical therapist licensees with last names beginning with letters A through L must renew their licenses by the 31st day of January of each even-numbered year and licensees with last names beginning with letters M through Z must renew licenses by the 31st day of January in each odd-numbered year. If a license is not renewed by the 31st day of January in the appropriate year for renewal, it expires automatically.

The bill changes the procedure for renewing licenses to practice physical therapy. The bill requires physical therapist licenses to be renewed in accordance with rules adopted by the Physical Therapy Section. The Section is required to adopt rules establishing a schedule for the expiration of licenses. To renew a license, a license holder must submit an application, fee, and signed statement listing continuing education requirements completed within the time frame established by rules. Licenses that are not renewed in accordance with the schedule adopted in rules will automatically expire a day after the last date of renewal established by the rules. The bill requires licensees to report changes in name, business address, or home address not later than 30 days after the change.

Sanctions

(sec. 4755.47)

Current law lists many circumstances in which the Physical Therapy Section may refuse to give a license to an applicant or may suspend or revoke a license or place a licensee on probation. In addition to suspending or revoking a license or placing a licensee on probation, the bill also allows the Section to limit a license.

The bill adds the following as grounds for taking action against a license holder:

1. Permitting the use of one's name or license by a person, group, or corporation when the individual permitting the use is not directing the treatment given;
2. Failure to maintain minimal standards of practice in the administration or handling of drugs, or the failure to use scientific methods in selecting drugs or treatment;
3. Willful betrayal of a professional confidence;

4. Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients;
5. A departure from, or the failure to conform to, minimal standards of care required of licensees, whether or not actual injury to a patient occurs;
6. Obtaining or attempting to obtain money or anything of value by fraudulent misrepresentations in the course of practice;
7. Violation of the conditions of limitation or agreements placed by the physical therapy section on a license to practice;
8. Failure to renew a license;
9. Except as authorized by the Revised Code, engaging in the division of fees for referral of patients;
10. Inability to practice according to acceptable and prevailing standards of care because of mental or physical illness;
11. The revocation, suspension, restriction, or termination of clinical privileges by the United States Department of Defense or Department of Veterans Affairs;
12. Termination or suspension from participation in the Medicare or Medicaid Program;
13. Failure of a physical therapist to maintain supervision of a student, physical therapist assistant, unlicensed support personnel, other assistant personnel, or a license applicant;
14. Failure to cooperate with an investigation conducted by the Section;
15. Failure to complete continuing education requirements or to satisfy any rules applicable to continuing education requirements;
16. Conviction of a misdemeanor when the act that constitutes the misdemeanor occurs during the practice of physical therapy;
17. Failure to notify the Section of a change in name, business address, or home address within 30 days after the date of the change;
18. Violation of the licensing law;



19. Waiving part of a deductible or co-payment or advertising that it will be waived.¹

In addition to establishing new grounds, the bill modifies several existing grounds for sanctioning a license holder. The bill provides that the ground of obtaining or attempting to obtain a license by fraud or deception, includes the making of a false, fraudulent, deceptive, or misleading statement is grounds for a penalty.

Current law provides that a licensee can be penalized for a violation of the code of ethics of the American Physical Therapy Association. The bill specifies that a sanction can be imposed for a violation of the code that is in effect at the time of the violation, or for a violation of the code of ethics or standards of ethical conduct of any other national professional organization specified in rules adopted by the Section that are in effect at the time of the violation.

The bill authorizes the section to impose a sanction for directly or indirectly violating or attempting to violate or assisting in or abetting the violation of the physical therapy licensing law or rules adopted by the Section.

Physical therapist title and practice prohibitions

(sec. 4755.48)

Existing law provides that no person can practice or claim to the public to be able to practice physical therapy unless the person has a valid license. The bill specifies that a person without a valid license cannot imply or claim to the public by words, actions, or the use of letters to be able to practice physical therapy. Current law contains a list words and titles that may not be used to indicate or imply that a person is a physical therapist or physical therapist assistant if the person does not have a valid license. The bill adds the terms "physical therapy services," "physiotherapy," and "physiotherapy services."

Exemptions

(sec. 4755.50)

Current law provides that nothing in the physical therapist law may prevent or restrict the practice of a licensed health care professional who is practicing

¹ *Sanctions are not to be imposed if the payment is waived in compliance with a health benefit plan and with the full knowledge and consent of the plan, and payment can be waived for professional services rendered to any person licensed under the physical therapy law to the extent allowed under the Revised Code.*

within the scope of the person's license or of a person practicing under the supervision of that professional. The bill provides that a person employed by a licensed health care professional who is practicing within the scope of the person's license is also included under this protection. However, the bill also specifies that the services of a licensed health care professional who is not licensed as a physical therapist but is practicing within the scope of that person's license may not be designated as physical therapy.

Athletic Trainers Section

Rulemaking authority for continuing education

(sec. 4755.61)

Current law allows the Athletic Trainers Section to adopt rules to determine the scope and nature of the continuing education courses for renewal of athletic trainers licenses. The bill authorizes the Section to determine the number of continuing education courses needed for license renewal.

Prohibitions

(sec. 4755.62)

Current law prohibits a person from claiming to the public to be an athletic trainer or implying by words or letters that the person is an athletic trainer unless the person is licensed as one. The bill expands this prohibition by also specifically prohibiting a person from implying by actions that the person is an athletic trainer unless the person is licensed as an athletic trainer.

Current law prohibits a partnership, association, or corporation from advertising that it is providing athletic training unless a licensed athletic trainer is employed by or under contract to the entity and will be performing the athletic training services advertised. The bill also provides that educational institutions are prohibited from advertising athletic training unless a licensed athletic trainer is working for the institution and will be providing the athletic training services.

Licensure requirements

(sec. 4755.62)

Current law requires athletic trainers to meet certain requirements to qualify for a license, including education, character, and clinical experience requirements. The bill makes the following changes to these requirements:

1. The bill requires an applicant to declare an intention to perform substantial athletic training within the state. Current law requires an applicant to be a resident of the state or to perform substantial athletic training within the state.

2. The bill eliminates a requirement that the Athletic Trainers Section approve the institution from which the applicant received a degree; however, the bill still requires the degree to be approved by the federal regional accreditation agency and recognized by the Council on Postsecondary Accreditation.

3. The bill no longer requires applicants to complete a program that meets the academic standards for athletic trainers established by the National Athletic Trainers Association, but retains the requirement that applicants satisfactorily complete educational course work requirements established by rule of the Athletic Trainers Section.

4. The bill removes the specified amount of supervised clinical experience required of applicants under current law. Instead, applicants must complete the amount of clinical experience that is determined by the Section in rules.

Licensure renewals

(sec. 4755.63)

Current law provides that each athletic trainer license expires two years after the date of issue. Each license holder can apply to the Section for renewal by submitting a renewal application, fee, and proof of satisfactory completion of at least six continuing education courses accepted by the Section.

The bill provides that licenses will expire automatically in accordance with the schedule in rules adopted by the Section. A licensee can apply for a renewal license by submitting an application, fee, and proof of the required number of continuing education courses, which is to be determined by the Section in a rule.

Discipline

(sec. 4755.65)

Current law permits the Athletic Trainers Section to suspend, revoke, or refuse to issue or renew a license, or to reprimand a license holder who does not comply with the licensing law or commits one of the offenses listed in the licensing law. The bill permits the Section to impose a fine in lieu of one of the sanctions already permitted.

Exemptions

(sec. 4755.65)

Current law provides that a nonresident is prevented from practicing athletic training in this state if the nonresident offers services for 90 days or less per year, or with approval of the Athletic Trainers Section, for more than 90 but not more than 180 days per year. The nonresident must qualify for licensure as an athletic trainer under the requirements in this state, except for the passage of the examination, or must hold a valid license issued by a state that has licensure requirements considered by the Section to be comparable to those of this state.

The bill eliminates the current provisions and provides instead that a nonresident may practice athletic training without meeting the requirements in current law while traveling with a visiting team or organization from outside the state for the purpose of providing athletic training to the visiting team or organization.

Report of official actions, recommendations

(sec. 4755.04)

Current law requires the Board to submit a report of all of its official actions during the preceding year to the Governor and the General Assembly. The report must include any recommendations and findings with regard to the improvement of the occupational therapy and physical therapy professions. The bill also requires the Board to submit any recommendations and findings that it has for improvement of the athletic trainers profession.



HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-14-02	p. 1588

s0249-i.124/kl

