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Bill Analysis
Legislative Service Commission

Sub. S.B. 35

125th General Assembly
(As Reported by H. Health)

Sens. Nein, Mumper, Spada, Blessing, Miller, Dann, Fingerhut, Prentiss, Robert Gardner

Reps. Martin, Beatty, Jerse, Fessler, Olman, Kearns, Jolivette

BILL SUMMARY

- Under specified conditions, permits a physical therapist to practice without the prescription of, or the referral of a patient by, a physician, chiropractor, dentist, podiatrist, certified registered nurse anesthetist, clinical nurse specialist, certified nurse midwife, or certified nurse practitioner.
- Establishes requirements that a physical therapist must satisfy if the physical therapist evaluates and treats a patient without such a prescription or referral.
- Prohibits anything in the physical therapist's licensing law from being construed to require reimbursement from specified types of health care payment sources for any physical therapy service rendered without the prescription or referral.
- Prohibits persons not licensed as physical therapists from using the letters M.P.T., D.P.T., M.S.P.T., or P.T.A.

CONTENT AND OPERATION

Practicing physical therapy without a prescription or referral

(R.C. 4755.48 and 4755.481)

Under current law, a physical therapist may practice only pursuant to the prescription of, or referral of a patient by, a person licensed to practice medicine or osteopathic medicine (a physician), chiropractic, dentistry, or podiatry. Violation

of this provision is a second degree misdemeanor, which carries a penalty of not more than 90 days in jail, a fine of not more than \$750, or both.

The bill authorizes a physical therapist to practice without a prescription or referral if certain conditions are met. It also adds certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, and certified nurse practitioner to the health care practitioners whose prescription or referral authorizes a physical therapist to practice.

Under the bill, a physical therapist who meets either of the following conditions may practice without a prescription or referral from a physician, chiropractor, dentist, or podiatrist or a nurse authorized to practice as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner:

(1) The physical therapist holds a master's or doctorate degree from a professional physical therapy program that is accredited by a national accreditation agency recognized by the United States Department of Education and by the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board;

(2) On or before December 31, 2003, the physical therapist has completed at least two years of practical experience as a licensed physical therapist.

The bill also establishes the following requirements that a physical therapist must satisfy if the physical therapist evaluates and treats a patient without a prescription or referral:

(1) The physical therapist must, upon consent of the patient, inform the patient's physician, chiropractor, dentist, podiatrist, certified registered nurse anesthetist, clinical nurse practitioner, certified nurse-midwife, or certified nurse practitioner of the evaluation no later than five business days after the evaluation is made.¹

(2) If the physical therapist determines, based on reasonable evidence, that no substantial progress has been made with respect to that patient during the 30-day period immediately following the date of the patient's initial visit with the physical therapist, the physical therapist must consult with or refer the patient to a licensed physician, chiropractor, dentist, podiatrist, certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner unless:

¹ "Business day" is defined as any calendar day that is not a Saturday, Sunday, or legal holiday.

- the evaluation, treatment, or services are being provided for fitness, wellness, or prevention purposes; or
- the patient previously was diagnosed with chronic, neuromuscular, or developmental conditions and the evaluation, treatment, or services are being provided for problems or symptoms associated with one or more of those previously diagnosed conditions.

(3) If the physical therapist determines that orthotic devices are necessary to treat the patient, the physical therapist is limited to the application of the following orthotic devices:

- Upper extremity adaptive equipment used to facilitate the activities of daily living;
- Finger splints;
- Wrist splints;
- Prefabricated elastic or fabric abdominal supports with or without metal or plastic reinforcing stays and other prefabricated soft goods requiring minimal fitting;
- Nontherapeutic accommodative inlays;
- Shoes that are not manufactured or modified for a particular individual;
- Prefabricated foot care products;
- Custom foot orthotics; and
- Durable medical equipment.

(4) If, at any time, the physical therapist has reason to believe that the patient has symptoms or conditions that require treatment or services beyond the scope of practice of a physical therapist, the physical therapist must refer the patient to a licensed health care practitioner acting within the practitioner's scope of practice.²

² "Health care practitioner" is not defined in the bill.

Diagnosis by physical therapists

(R.C. 4755.40)

The scope of practice of a physical therapist is governed by the definition of physical therapy in the licensing law (R.C. sections 4755.40 to 4755.56). "Physical therapy" is defined as the evaluation and treatment of a person by physical measures and the use of therapeutic exercises and rehabilitative procedures for the purpose of preventing, correcting, or alleviating any disability. The law specifically provides that physical therapy does *not* include certain activities. Among those activities is the diagnosis of a patient's disability. The bill limits this exception by specifying that physical therapy does not include the *medical* diagnosis of a patient's disability.

Reimbursement

(R.C. 4755.481)

The bill provides that nothing in the physical therapists' licensing law may be construed to require reimbursement under any health insuring corporation policy, contract, or agreement, any sickness and accident insurance policy, the Health Partnership Program or qualified health plans established under the workers' compensation law (R.C. Chapters 4121. and 4123.), or Medicaid, for any physical therapy service rendered without the prescription of, or the referral of the patient by, a licensed physician, chiropractor, dentist, podiatrist, certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner. (R.C. 4755.481(B).)

Prohibition against using specified letters

(R.C. 4755.48)

Current law prohibits a person without a valid license as a physical therapist from using the words or letters, physical therapist, physical therapy, physiotherapist, licensed physical therapist, P.T., Ph.T., P.T.T., R.P.T., L.P.T., physical therapy assistant, physical therapist assistant, physical therapy technician, licensed physical therapist assistant, L.P.T.A., R.P.T.A., or any other letters, words, abbreviations, or insignia, indicating or implying that the person is a physical therapist or physical therapist assistant. The bill adds M.P.T., D.P.T., M.S.P.T., and P.T.A. (R.C. 4755.48(C).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-18-03	p. 115
Reported, S. Insurance, Commerce, & Labor	03-18-03	p. 190
Passed Senate (30-2)	03-26-03	p. 220
Reported, H. Health	10-15-03	pp. 1122-1123

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