



**House
Legislative
Analysis
Section**

Washington Square Building, Suite 1025
Lansing, Michigan 48909
Phone 517/373-6466

PHYSICAL THERAPY: SCOPE OF PRACTICE

House Bill 4435 with committee amendments
First Analysis (6-10-87)

Sponsor: Rep. David M. Gubow
Committee: Public Health

RECEIVED

JUL 16 1987

Mich. State Law Library

THE APPARENT PROBLEM:

Under Michigan's Public Health Code, physical therapists may evaluate or treat an individual only upon a prescription from a physician, dentist or podiatrist. This requirement, however, means that physical therapists are legally barred from certain activities, such as participation in community health fairs and on-site evaluation of school children without a prescription. Since other licensed health professionals such as speech therapists and occupational therapists can engage in these activities without a written prescription, some people believe that legislation should be passed which would allow physical therapists similar freedom to act.

THE CONTENT OF THE BILL:

The bill would amend the section of the Public Health Code governing physical therapists to allow them to evaluate, consult with, and educate individuals without first obtaining a prescription from a physician, dentist or podiatrist. (However, hospitals which employed or granted staff privileges to physical therapists still could require the physical therapists to have a prescription in order to practice in the hospital.) The bill also would allow physical therapists to initiate referrals and would repeal the section of the code which imposes penalties on physical therapists who practice without a prescription. Finally, the bill would specifically state that evaluations performed by physical therapists would not constitute medical diagnoses.

MCL 333.17801 and 333.17820

FISCAL IMPLICATIONS:

Fiscal information was not available at the time of this analysis. (6-9-87)

ARGUMENTS:

For:

Physical therapists are well-trained, licensed professionals, and yet their ability to evaluate, educate, or consult with individuals is restricted in ways that the practice of other comparable professionals is not. In the interests of fairness, physical therapists should be allowed to evaluate, educate, and consult with individuals without first obtaining a prescription.

For example, unlike other health professionals, whether licensed or not, physical therapists cannot legally participate in community health fairs without a prescription from a physician, dentist, or podiatrist. Again, in school settings, speech therapists and occupational therapists can initiate evaluations of school children, but physical therapists cannot.

As a matter of simple fairness, physical therapists should be able to participate in beneficial public education efforts on an equal footing with other licensed health professionals or to evaluate school children and recommend exercise programs without first obtaining a prescription.

For:

The bill would benefit the public by allowing people direct access to consultation with and evaluation by physical therapists. This would save people the time and expense of arranging for an appointment with a physician in order to get permission to see a physical therapist if they should so desire. Thirty-six other states already allow direct access to physical therapists by members of the public, and Michigan's citizens should have this right too.

For:

The bill would benefit individual patients by cutting costs and speeding up the process of obtaining access to physical therapy for people who had already been diagnosed (for example, children with cerebral palsy or someone with arthritis) and who just wanted an exercise program or other appropriate physical therapy. Under the bill, the physical therapist could call the physician and get the prescription, thereby cutting costs by cutting out the extra visit to the physician and benefiting the patient by providing quicker treatment. Even in cases where a prior diagnosis had not been made, the bill could speed treatment by allowing a physical therapist to evaluate a client and recommend to his or her physician the particular treatment indicated. Since, according to one estimate, more than 50 percent of physicians' prescriptions for physical therapy say simply "evaluate and treat" and since, in practice, many prescriptions are given over the telephone, the bill would not greatly change much of present practice except to eliminate the extra visit to the physician's office. Finally, the bill also could cut costs in those cases where the physical therapist's evaluation indicated no physical therapy was needed.

Response: Time and expense would be saved only in those cases in which either a patient already had been diagnosed or a physician were comfortable accepting over the telephone a physical therapist's evaluation and recommendations. One undesirable result of the bill could be an increase in prescription abuse, with physicians prescribing over the telephone without ever having examined the patient to see whether or not physical therapy were appropriate to prescribe. This, in turn, could open physicians to further malpractice liability.

For:

In addition to saving some patients time and money, the bill also would result in the kind of proven cost savings resulting from expansion of health promotion efforts. Members of the public now can go to a variety of athletic trainers, exercise physiologists, and so on, either on their own or as part of wellness or health promotion programs. The bill would allow physical therapists to participate in these cost-effective prevention and health promotion programs, thereby benefiting the public and helping lower health care costs.

Against:

The bill would endanger patients by allowing unqualified

H.B. 4435 (6-10-87)

OVER

people to perform medical diagnoses that only physicians are properly trained to do. Even though the bill says evaluation by physical therapists would not be considered medical diagnosis, in effect that is what the physical therapist would be doing. For a physical therapist would, at the very least, have to decide whether or not someone who had come for consultation or evaluation should see a physician, and that, in itself, is a kind of diagnosis.

Consider, for example, the case of someone who decided to consult a physical therapist about back pain. Suppose the physical therapist attributes the pain to muscle strain when really it is cancer of the spine. The physical therapist might request a prescription for an exercise program, which a physician might give over the telephone, thereby delaying diagnosis and treatment of the true condition and endangering the patient's life.

Under present law, the patient is diagnosed before going to a physical therapist, which means that a qualified medical practitioner has determined that the patient's problem is not one requiring medical therapy and one for which physical therapy is appropriate. Only physicians are qualified by their training to make these kinds of diagnoses, and to allow lesser trained personnel to practice medicine would be to set a dangerous precedent.

Response: In the first place, physical therapists, like other limited practice health care specialists, are trained to recognize what they can and cannot treat. They can recognize conditions that their training does not qualify them to treat without thereby engaging in medical diagnosis. They do not have to name a pathology to recognize that it is something that will not respond to physical therapy.

But in the second place, the objection contains a fallacious assumption. No one is claiming that physical therapists are infallible. But the objection appears to assume that physicians are, that they always correctly diagnose every condition, something which is patently false. As in any field, some physicians are better diagnosticians than others, and some fail to refer patients to physician specialists even when that would be the appropriate course of action. However, physicians are human, just like the rest of us, and few would claim to have mastered every aspect of today's vast body of medical knowledge. To hold physical therapists to higher standards than we do physicians is not only unfair; it also often masks the real objection, which is to the breaking of the medical monopoly of physicians.

Against:

The bill would weaken the relationship between physicians and physical therapists by allowing physical therapists greater independence from physicians. It also will promote the fragmentation of services, which is detrimental to patients. There also could be problems with prescription abuse, with physicians prescribing over the telephone and failing to properly monitor and control the services they prescribe.

Response: Physical therapists, to the contrary, argue that the bill would strengthen the relationship between physicians and physical therapists. If the objection is that physicians will have less complete control over the practice of physical therapists than they do now, then this is certainly true. However, since the bill would continue to require physical therapists to have a prescription in order to engage in the actual treatment of an individual, it is difficult to see how the bill would change the existing actual arrangements between physicians and physical therapists. A majority of states already allow physical therapists to do what this bill proposes, while 15 states allow physical therapists to treat individuals without a prescription, so

clearly many people find this "weakened" relationship beneficial, at least to patients. Finally, even if there were a problem with physicians failing to properly monitor the prescriptions they ordered, surely the solution would be to more closely regulate the physicians, not the physical therapists.

Against:

The bill is just a first step toward allowing physical therapists to become independent practitioners, a prospect that poses dangers to the public and increased health care costs to all.

Response: The bill does not allow actual treatment without a prescription, though in fact (as 15 other states already have decided) this might well be an unnecessary restriction on the practice of physical therapists. Even if physical therapists did become independent practitioners, that would not necessarily increase health care costs (indeed, it might well reduce them), particularly if they did not receive third party reimbursement.

Against:

The bill would allow a potential confusion between the roles of chiropractors and physical therapists. It could expand the practice of physical therapy into including spinal manipulation, which is the practice of chiropractic. Amendments should be included which would spell out the relationship between chiropractors and physical therapists.

Response: Since physical therapists would continue to be able to actually treat patients only on the prescription of a physician, unless physicians start prescribing chiropractic measures, physical therapists won't be doing chiropractic. And in fact, those rare physicians who would prescribe chiropractic would more likely simply refer their patient to a chiropractor. (It also should be noted that osteopathic physicians also practice spinal manipulation, not just chiropractors.)

Against:

Hospitals already have a difficult time attracting and retaining physical therapists. The bill would make it even more difficult for hospitals to do this, at least without further increasing hospital costs.

Response: Although the problem of rising health care costs is a serious one, it should not be solved by failing to adequately compensate highly trained professionals. Besides, the bill contains a provision which would allow hospitals to require physical therapists who practice in hospitals to practice only upon written prescription. Surely access to a hospital's physical plant will remain attractive to many physical therapists, who will decide to practice under hospital restrictions.

POSITIONS:

The Department of Public Health has no position on the bill. (6-5-87)

Blue Cross & Blue Shield of Michigan does not oppose the bill. (6-9-87)

The Michigan State Medical Society opposes the bill. (6-9-87)

The Michigan State Association of Osteopathic Physicians and Surgeons opposes the bill (6-9-87).