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BILL ANALYSIS

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Senate Fiscal Agency

Lansing, Michigan 48909

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House Bill 4435 (as reported without amendment)**Sponsor: Representative David M. Gubow****House Committee: Public Health****Senate Committee: Health Policy**

Mich. State Law Library

Date Completed: 10-26-87**RATIONALE**

Under Michigan's Public Health Code, physical therapists may evaluate or treat an individual only upon a prescription from a physician, osteopath, dentist, or podiatrist. The effect of this requirement is that physical therapists are legally barred from participating in certain activities, such as community health fairs and on-site evaluation of school children. Since other licensed health professionals, such as speech therapists, can engage in these activities without a prescription, some people believe that the same authorization should be extended to physical therapists.

CONTENT

The bill would amend the Public Health Code to permit a licensed physical therapist to educate and consult with individuals, or initiate referrals as part of the practice of physical therapy without first obtaining a prescription from a physician, osteopath, dentist, or podiatrist. Practice of physical therapy would not include the identification of underlying medical problems or "etiologies" (the cause or origin of a specific disease), the establishment of medical diagnoses, or the prescribing of treatment. A physical therapist could engage in the "actual treatment of an individual" only upon a prescription from a physician, osteopath, dentist or podiatrist.

A hospital would not be prohibited from requiring, as a condition of employment or the granting of staff privileges, a physical therapist to practice in the hospital only upon the prescription of a physician, osteopath, dentist, or podiatrist who was licensed in Michigan or issued a license by another state.

The bill also would repeal a section of the Code that imposes penalties on physical therapists who practice without a prescription.

Proposed MCL 333.17822

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS**Supporting Argument**

The ability of physical therapists to evaluate, educate, or consult with individuals is restricted under the Public Health Code. For example, physical therapists cannot legally participate in health promotion events, such as community health fairs and wellness programs, or advise businesses and industries on health promotion at the workplace, without first obtaining a prescription from a physician,

osteopath, dentist, or podiatrist. Despite this prohibition, some physical therapists reportedly are taking part in such activities, without realizing that they are violating the law. Physical therapists should be able to participate in these educational efforts that benefit the public, especially since their involvement would not require diagnosis or treatment.

Supporting Argument

The bill would allow individuals to have direct access to physical therapists for consultation and evaluation without first having to make an appointment with a physician in order to obtain a prescription permitting a physical therapist to do this type of work. This would benefit individuals whose condition already had been diagnosed by a physician, such as children with cerebral palsy or a person afflicted with arthritis, who needed an exercise program, for example, but should not have to see a physician again to be told they need that program from a physical therapist. Even in cases in which a prior diagnosis had not been made, the bill could speed treatment by allowing a physical therapist to evaluate a client and recommend to the client's physician the particular treatment. A physical therapist could call the physician and get a prescription for treatment, thus providing quicker treatment and cutting the cost of an extra visit to the physician just to get a prescription.

Response: The bill could result in an increase in prescription abuse whereby physicians would prescribe treatment over the telephone without ever having examined the patient to see whether physical therapy was in fact the appropriate treatment.

Supporting Argument

The history of the physical therapy profession dates back to the early part of this century when persons from other health professions assisted physicians in helping patients deal with problems of movement. By the 1950s, educational requirements were set for the profession, and during the 1960s licensing of physical therapists became commonplace across the country. The return of injured soldiers from World War II and the Korean conflict along with the onslaught of the polio epidemic heightened the need for physical therapy. With implementation of President Johnson's Great Society program in the 1960s, physical therapy was covered by Medicare and Medicaid payments and this type of treatment became available on a greater scale to senior citizens. Today, physical therapy plays an important role in the promotion of health. Yet, the profession in Michigan is hampered by restrictions in the law. According to the Michigan Physical Therapy

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Association, 36 states allow the type of direct access to evaluation, education, and consultation as proposed in the bill. Meanwhile, 14 states reportedly allow direct access for treatment. Michigan should join the majority of states that recognize the need for patients to have greater access to care.

Opposing Argument

Even though proponents of the bill claim that evaluations done by physical therapists would not be considered medical diagnoses, in effect that is what physical therapists would be providing. At the very least, a physical therapist would have to decide whether an individual who sought consultation or evaluation should see a physician. That, in itself, would be a type of diagnosis. Currently, a patient is diagnosed before going to a physical therapist, which means that a qualified medical practitioner had determined that a patient's problem required not medical treatment, but physical therapy. Only physicians are qualified by their training to make these kinds of diagnoses. To allow persons not trained to perform medical diagnoses would endanger patients.

Opposing Argument

The bill would weaken the relationship between physicians and physical therapists by allowing physical therapists greater independence from physicians. The bill would be the first step toward allowing physical therapists to become independent practitioners.

Response: The bill would strengthen the relationship between physicians and physical therapists, who are not trying to expand their scope of practice, but want to offer the public another avenue for entering health services. Actual treatment would not be allowed without a prescription from a physician, osteopath, dentist or podiatrist. Since the bill would continue to require physical therapists to obtain a prescription before engaging in actual treatment of an individual, it is difficult to see how the bill would change the existing arrangements between physicians and physical therapists.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.