



**House
Legislative
Analysis
Section**

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OCCUPATIONAL THERAPISTS REGISTRATION

Senate Bill 293 (Substitute H-1) RECEIVED
First Analysis (12-8-87)

FEB 06 1988

Sponsor: Sen. John F. Kelly
Senate Committee: Health Policy, Planning and Statistics
House Committee: Public Health

THE APPARENT PROBLEM:

Occupational therapists are trained professionals who work with people who suffer from disease, deformity or disabilities related to accidents, to assist them in developing the necessary skills for these persons to care for themselves and lead productive lives. Rehabilitation services are provided to people of all ages. Nearly 23 percent of the occupational therapists in Michigan work in schools, 22 percent in hospitals, and 9 percent in psychiatric hospitals. Occupational therapists also may be found in rehabilitation centers, nursing homes, outpatient clinics, community mental health centers, physicians' offices, industrial health clinics, substance abuse centers, and home health agencies. Clients treated by occupational therapists include people who have suffered strokes, heart attacks, spinal cord injuries, burns, developmental deficiencies, arthritis, cancer, aging disabilities, psychiatric disorders, and birth defects. Under the present system, some people claim, a client has no way of determining whether an occupational therapist is qualified. In order to protect the health service consumer, some people believe that Michigan must establish criteria for the registration of occupational therapists in order to protect the health, safety, and welfare of the public from fraudulent practitioners.

THE CONTENT OF THE BILL:

The bill would provide for the registration of certified occupational therapists and certified occupational therapy assistants, create a board of occupational therapists, and require the board to set minimum standards for registration of the professions.

Board of Occupational Therapists. The Michigan Board of Occupational Therapists would be created in the Department of Licensing and Regulation and would consist of five voting members — three registered occupational therapists and two public members — who would have to meet the general requirements for boards set forth in Part 161 of Article 15 of the code, which governs health care professionals. The terms of office for board members, except those appointed to fill vacancies, would expire four years after appointment on December 31. Board members who were occupational therapists would have to be registered within three years after the effective date of the bill. During the initial three-year period, professional members of the board would have to be certified or otherwise approved by a national certifying organization for the profession and have actively practiced the profession or taught in an educational institution which prepares applicants for registration in the profession for the two years preceding their appointment. (These interim requirements would also apply to other professional boards created after the effective date of the bill.)

The board would be required to promulgate rules, in consultation with the Department of Licensing and Regulation, establishing the minimum standards for registration as a certified occupational therapist and a

certified occupational therapy assistant. The board could adopt the professional standards issued by the American Occupational Therapy Association or any other recognized trade association. The board could not promulgate rules which would diminish competition or exceed the minimum level of regulation necessary to protect the public. The department could contract with other state agencies, private agencies, organizations, and consultants to assist the board in carrying out its functions. "Certified occupational therapist" would mean an individual who diminished or corrected pathology in order to promote and maintain health through application of the art and science of directing purposeful activity designed to restore, reinforce, and enhance the performance of individuals, and who was registered in accordance with Article 15. "Certified occupational therapy assistant" would mean an individual who was registered as a certified occupational therapy assistant in accordance with Article 15.

Titles. After the rules were promulgated by the board, as outlined in the bill, a person could not use the title "Occupational Therapist," "O.T.," "Occupational Therapist Registered," "O.T.R.," "Certified Occupational Therapist," "C.O.T.," "Certified Occupational Therapy Assistant," "C.O.T.A.," "Occupational Therapy Assistant," or similar words which indicated that the person was a certified occupational therapist or a certified occupational therapy assistant unless the person were registered in accordance with Article 15.

Other Applicable Code Articles. The bill specifies that, in addition to definitions contained in the bill, Article 1 contains general definitions and principles of construction applicable to all articles in the code and Part 161 contains definitions that would be applicable to the bill.

Tie-bar. The bill is tie-barred to Senate Bill 525, which would establish fees for persons seeking registration as certified occupational therapists or certified occupational therapy assistants.

MCL 333.16263 et al.

HOUSE COMMITTEE ACTION:

As passed by the Senate, the bill would have required the board to promulgate rules which incorporated the certification standards of the American Occupational Therapy Association. The House Public Health Committee adopted a substitute bill which would allow, but not require, the board to adopt the standards established by the national organization. The House substitute also includes language establishing interim standards for professional members of occupational boards created on or after the effective date of the bill.

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the estimated cost of the program would be approximately \$22,000. (12-7-87)

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OVER

(Note: Senate Bill 525, which is tie-barred to Senate Bill 293 and is currently before the House State Affairs Committee, would impose fees for applicants for registration as occupational therapists and occupational therapy assistants. The Senate Fiscal Agency estimates that Senate Bill 525 would raise approximately \$110,000 in revenue in the first year of implementation, and approximately \$66,000 annually in subsequent years.)

ARGUMENTS:

For:

An advertisement in the "Grand Rapids Press" recently promoted the use of a home massage whirlpool unit as a form of occupational therapy. A clinic in Ann Arbor claims to be an occupational therapy and vision center, but there are no occupational therapists on staff--only assistants who are high school graduates trained to perform a specific test. These are two examples cited by the Michigan Occupational Therapy Association of misleading use of the term "occupational therapy" due the lack of regulation in the state. Despite a lack of state regulation, many occupational therapists and assistants voluntarily seek credentials from the American Occupational Therapy Association. Under the association's guidelines, a registered occupational therapist must complete either a bachelor's or master's degree in occupational therapy, which includes course work in anatomy, neuroanatomy, neurophysiology, psychology, and extensive training in occupational therapy and treatment methods. In addition, students must complete six to nine months of supervised field work. A certified occupational therapy assistant must have completed a two-year post-secondary occupational therapy educational program, and have worked under the supervision of a registered occupational therapist. All entry level occupational therapists must pass national certification examinations to receive credentials by the American Occupational Therapy Association. Many hospitals and insurance companies also require that occupational therapists have professional credentials. The bill would require that certain minimum standards be met for registration as a certified occupational therapist or assistant in Michigan. In addition, occupational therapy would be included in the regulations for occupations contained in the Public Health Code, which includes provisions for violations. Thus, patients would have recourse under the code to deal with fraudulent therapists. Continued lack of regulation of this profession can only endanger the health and safety of the public.

For:

Persons who are seriously disabled, not capable of feeding or dressing themselves, or unable to perform on a job or care for a home, usually are in need of occupational therapy services. Under the present system in Michigan, persons seeking such help have no method to determine whether the occupational services they want to purchase would be provided by a qualified occupational therapist. Persons who claim to be occupational therapists, but lack the proper training to assist persons in regaining skills or adapting to their conditions, could cause irreversible harm. The Michigan Occupational Therapy Association notes that it has received an increasing number of reports about persons who call themselves occupational therapists and who claim to practice occupational therapy but have no education in occupational therapy. No adequate means exist to protect the public from the tragic results that may be caused by the fraudulent practice of occupational therapy.

Against:

Currently, there are 134 occupations that are either licensed, certified, or regulated by the state, which affect

more than one million people. Over the years, there has developed a hodgepodge of occupations under state regulations, such as beekeepers and butter graders. Occupational therapists are just one of many highly technical skilled trades and professions that are seeking state regulation. In fact, 50 other occupations are seeking licensure or regulation by the state. Yet, the Department of Licensing and Regulation has not accepted new professions for regulation in the past 10 years due to a lack of resources to handle the work of regulation. Before any more professions are granted state licensure, certification, or regulation, occupations currently under state regulation should be reviewed. Primary emphasis should be given to the effect that regulation, or the lack of it, will have on the health, safety, and welfare of the public.

Response: Currently, 36 states plus the District of Columbia and Puerto Rico reportedly license occupational therapists and assistants. In 1982, the Michigan House of Representatives Health Occupations Council recommended registration of this profession, which would affect approximately 3,100 occupational therapists, assistants, and students in the state.

POSITIONS:

The Michigan Occupational Therapy Association supports the bill. (12-7-87)

The Department of Licensing and Regulation has no position on the bill. (12-7-87)