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BILL ANALYSIS

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Senate Bill 293 (Substitute S-2)

Senate Bill 525 (as reported with amendment)

Sponsor: Senator John F. Kelly

Committee: Health Policy

Date Completed: 11-10-87

RATIONALE

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% of the occupational therapists in Michigan work in schools, 22% in hospitals, and 9% 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 in this State 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 State's 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.

CONTENTSenate Bill 293 (S-2)

The bill would amend Article 15 of the Public Health Code to:

- Provide for the registration of certified occupational therapists and certified occupational therapy assistants.
- Create the Michigan Board of Occupational Therapists within the Department of Licensing and Regulation.
- Require the Board to set minimum standards for registration as a certified occupational therapist or a certified occupational therapy assistant.

Senate Bill 525

The bill would amend the State License Fee Act to establish fees for a person who was registered or was seeking registration as a certified occupational therapist or a certified occupational therapy assistant under the Public Health Code, as proposed in Senate Bill 293. The fees would be set as follows:

Application Processing Fee	\$20.00
Registration Fee, per year	30.00

The bills are tie-barred. A more detailed description of Senate Bill 293 (S-1) follows.

Board of Occupational Therapists/Rules

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.

The Board would be required to promulgate rules requiring, at a minimum, that an individual registered as a certified occupational therapist, or a certified occupational therapy assistant, have met certification requirements as a registered occupational therapist, or requirements for certification as an assistant, as established by the American Occupational Therapy Association and approved by the Board. 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.

MCL 333.16263 et al. (Senate Bill 293 (S-2))
Proposed MCL 338.2260 (Senate Bill 525)

S.B. 293 & 525 (11-10-87)

FISCAL IMPACT

According to the Michigan Occupational Therapy Association, there are about 2,200 occupational therapists in the State. If all were to apply for registration as certified occupational therapists or therapy assistants, the total amount of revenue generated for the State would be \$110,000 $(\$20 + \$30) \times 2,200$ for the first year and \$66,000 $(\$30 \times 2,200)$ in subsequent years. The estimated cost of the program would be \$22,456 which would be allocated as follows:

Per diem for 5 members	$\$50/\text{diem} \times 5 \text{ members} \times 8 \text{ meetings}$	= \$ 2,000
Travel & Miscellaneous	$\$80/\text{diem} \times 5 \text{ members} \times 8 \text{ meetings}$	= 3,200
.5 Typist/Clerk III FTE	$[(\$10.14/\text{hr.} \times 2,088 \text{ hrs.}) + 37.5\% (21,172.32)]/2$	= 14,556
Phone Equipment and Charges		= 400
Consulting (expert witnesses)		= 1,200
Postage and Printing		= 1,100
		<u>\$22,456</u>

These costs are based on the current costs for the licensing functions of the physical therapist licensing program whose structure and number of licensees are similar to the proposed occupational therapists licensing program.

Although the proposed fees would be licensing fees, they would not be restricted solely to the financing of the occupational therapist program. Upon collection, they would be deposited to the general revenue account of the General Fund which is used to fund various regulatory programs. Any unused funds, therefore, would lapse to the General Fund.

The bill would have no fiscal impact on local government.

ARGUMENTS

Supporting Argument

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 to the lack of regulation in the State. Despite a lack of State regulation, many occupational therapists and assistants seek credentials from the American Occupational Therapy Association. Yet, this is only a voluntary form of regulation not required by the State. 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 this State. 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 Health Code to deal with fraudulent therapists. Continued lack of regulation of this profession can only endanger the health and safety of the public.

Supporting Argument

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 in the State, however, to protect the public from the tragic results that may be caused by the fraudulent practice of occupational therapy.

Opposing Argument

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.

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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.