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BILL



ANALYSIS

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Senate Bill 151 (Substitute S-2 as reported)
Sponsor: Senator Bruce Patterson
Committee: Health Policy

(as enacted)

Date Completed: 3-11-09

RATIONALE

Michigan is one of only four states that do not regulate physical therapist assistants (PTAs), and is the only state that does not define them, according to the Federation of State Boards of Physical Therapy. Federation data also show that, of the 46 states that regulate PTAs, 38 require them to be licensed. In Michigan, the Public Health Code provides for the licensure of physical therapists, but does not address PTAs. This absence of regulation is considered problematic for several reasons. Although employers may require PTAs to have a degree from an accredited program, and Medicare regulations contain this requirement, there is nothing in State law to prevent anyone from calling himself or herself a PTA and providing physical therapy services to consumers in Michigan. Also, recent changes to Medicare rules will require PTA graduates to complete a national exam beginning in January 2010. Since this State does not require licensure, students graduating from a PTA program in Michigan will have to take the exam in another state. In addition, some employers that provide personnel to facilities in multiple states require licensure of all PTAs hired in Michigan, and these individuals must go out of State to obtain a license. It also has been pointed out that, without State regulation of PTAs, there is no effective way to disseminate information to these practitioners.

To address these concerns, many people believe that Michigan should require the licensure of physical therapist assistants, as well as provide for the continuing professional development of both PTAs and physical therapists.

CONTENT

The bill would amend Part 163 (General Provisions) and Part 178 (Physical Therapy) of the Public Health Code to provide for the licensure of physical therapist assistants, and make other changes regarding physical therapists and PTAs. The bill would do the following:

- Require the Department of Community Health (DCH), by rule, to establish professional development requirements for physical therapists and PTAs.**
- Require the Board of Physical Therapy, between the bill's effective date and the effective date of rules governing the issuance of PTA licenses, to grant a limited physical therapist assistant license to an applicant who graduated from an accredited PTA education program; and provide that a limited license would be effective until the Board formally issued or denied a license to the applicant.**
- Increase the annual license fee for physical therapists from \$50 to \$90, and extend the fee to PTAs.**
- Add a PTA to the Board and increase the physical therapist members by one.**
- Require a physical therapist to consult with or refer a patient back to the prescribing health care professional, under certain circumstances.**

Physical Therapist Assistant Licensure

"Physical therapist assistant" would mean an individual with a health profession subfield

license under Part 178 who assists a physical therapist in physical therapy intervention. "Practice as physical therapist assistant" would mean the practice of physical therapy performed under the supervision of a licensed physical therapist.

An applicant for licensure as a physical therapist assistant would have to meet the requirements of Section 16174 and, except as otherwise provided, all of the following requirements, as applicable:

- Be a graduate of a program for the training of PTAs approved by the Board.
- If graduated after January 1, 2008, passed an examination approved by the Board

For the purposes of the first requirement, the Board would have to approve a PTA training program from the U.S. military or from outside of the United States if the program were determined to be substantially equivalent to PTA entry-level training in the U.S. by a credentials evaluation organization approved by the American Physical Therapy Association or were listed as a credentialing organization in 8 CFR 212.15(e), (which applies to foreign health care workers).

(Section 16174 requires an individual who is licensed or registered under Article 15 (health occupations) to be 18 years of age or older; be of good moral character; have a specific education or experience in the health profession or health profession subfield or health profession specialty field of the health profession, or equivalent training, or both, necessary to promote safe and competent practice and informed consumer choice; have a working knowledge of the English language; pay the appropriate fees; establish that disciplinary proceedings before a similar licensure or certification board are not pending; establish that no sanctions are in force at the time of application; file a consent to the release of information regarding a disciplinary investigation; and submit fingerprints for a criminal history check.)

Professional Development

In consultation with the Board of Physical Therapy, the DCH would have to promulgate rules establishing professional development requirements for physical therapists and

physical therapist assistants, as well as rules to require licensees seeking renewal to furnish evidence acceptable to the DCH and the Board of the successful completion, during the proceeding license term, of the requirements. Beginning the license year after the rules' effective date, an individual would have to meet the professional development requirements.

Standards of Practice

A physical therapist would have to refer a patient back to the health care professional who issued the prescription for treatment if the therapist had reasonable cause to believe that there were symptoms or conditions requiring services beyond the scope of practice of physical therapy.

A physical therapist would have to consult with the health care professional who issued the prescription for treatment if a patient did not show reasonable response to treatment in a time period consistent with the standards of practice as determined by the Board.

Limited PTA License

Beginning on the bill's effective date and ending on the effective date of the rules promulgated regarding the issuance of licenses to PTAs under Part 178, the Board would have to grant a limited license to an applicant who was a graduate of a PTA education program accredited by the Commission on Accreditation in Physical Therapy Education. A limited license would be effective until the Board formally issued or denied a license to the applicant.

Other Provisions

The Board of Physical Therapy consists of five physical therapists and three public members. The bill would add one physical therapist assistant and increase the physical therapist members to six.

Part 178 lists words, titles, and letters whose use is restricted to those individuals authorized to use them. The bill would add the following to this list: physical therapist assistant, physical therapy assistant, physiotherapist assistant, physiotherapy assistant, p.t. assistant, c.p.t., m.p.t., p.t.a., registered p.t.a., licensed p.t.a., certified p.t.a., c.p.t.a., l.p.t.a., and r.p.t.a.

The bill specifies that Part 178 would not require new or additional third party reimbursement or mandated workers' compensation benefits for physical therapy services, and would not preclude a third-party payer from requiring a member or enrollee to fulfill benefit requirements for physical therapy services, including prescription, referral, or preapproval when services were rendered by an individual licensed or otherwise authorized under Part 178.

MCL 333.16335 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

By requiring PTAs to be licensed, the bill would help ensure that health facilities, employers, and PTAs received payment from third-party payers, in addition to Medicare. When policies are set by third-party payers, they sometimes include wording that assumes that all states regulate PTAs. An insurance company, for example, might have a policy of reimbursing only for treatment provided by "licensed individuals". This can create a hardship for PTAs and employers where licensure is not available.

Supporting Argument

Under the bill, both physical therapists and PTAs would have to meet not only entry-level criteria but also professional development requirements. The bill would require the DCH, in consultation with the Board, to promulgate rules establishing these requirements, as well as a requirement that licensees furnish evidence of successful completion in order to renew their license. These requirements would help ensure that physical therapy practitioners stayed up to date with advances in their field and remained competent throughout their careers.

Opposing Argument

Government regulation of PTAs is unnecessary absent a clear threat to the public health or a significant potential to improve quality through regulation. By limiting entry into the profession, licensure could restrict the pool of workers, leading to an increase in health care costs, as well as a

decrease in the efficiency and flexibility in health delivery systems. The PTA profession already is subject to national standards.

Response: Rather than creating a new regulatory scheme, the bill would enhance what already is in place, which includes an existing board within the DCH. Just as practice as a physician's assistant is a health profession subfield of the practice of medicine, practice as a PTA would be a subfield of the practice of physical therapy.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would require the State to incur costs and an increased administrative burden due to expanded licensure regulations. These costs, however, would likely be offset by the increase in annual license fees for physical therapists and physical therapist assistants. The bill proposes raising the annual licensure fee from \$50 to \$90. According to the DCH, the Michigan Board of Physical Therapy currently oversees approximately 9,000 physical therapists and an indeterminate number of physical therapy assistants. This suggests that the State could increase revenue by at least \$360,000 per year if the annual license fee were increased as proposed.

Fiscal Analyst: Matthew Grabowski

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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.