

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 107 Physical Therapy

**SPONSOR(S):** Cummings

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 450

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	12 Y, 0 N	Siples	O'Callaghan
2) Health & Human Services Committee	11 Y, 0 N	Siples	Calamas

### SUMMARY ANALYSIS

Physical therapists are regulated under ch. 486, F.S., the Physical Therapy Practice Act (Act), and by the Board of Physical Therapy (Board) under the Department of Health's Division of Medical Quality Assurance. Physical therapy is the assessment, treatment, prevention, and rehabilitation of any disability, injury, disease, or other health condition of a human being with the use of various modalities.

The bill requires a practitioner of record to review and sign a treatment plan for a patient when treatment is required beyond 30 days for a condition not previously assessed by a practitioner of record or by a physician licensed in another state. A practitioner of record includes allopathic or osteopathic physicians, chiropractors, podiatrists, or dentists.

The bill creates title protection for a licensed physical therapist who has obtained a doctoral degree in physical therapy by only allowing a person qualified as such to use the title "D.P.T." Additionally, the bill makes it unlawful for a person to use, in connection with his or her place of business, the title acronym "D.P.T.," unless the person holds a doctoral degree in physical therapy and an active license as a physical therapist. However, the bill prohibits a physical therapist who holds a doctoral degree in physical therapy from using the title "doctor," unless the physical therapist clearly informs the public that his or her profession is physical therapy.

The bill also deletes redundant language in statutes providing title protection for physical therapists and physical therapy assistants.

The bill has an insignificant, negative fiscal impact on the Department of Health and no fiscal impact on local governments.

The bill provides that it shall take effect upon becoming a law.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### Physical Therapy in the United States

Physical therapy practice is the performance of physical therapy assessments and treatment, or prevention of any disability, injury, disease, or other health condition of human beings and rehabilitation as it relates to the use of various modalities, such as exercise, massage, ultrasound, ice, heat, water, and equipment.<sup>1</sup>

Physical Therapists (PTs) are licensed in all 50 states. States utilize the National Physical Therapy Exam (NPTE), which was developed by the Federation of State Boards of Physical Therapy (FSBPT), to determine if a person has met competency standards for the safe provision of nationally accepted physical therapy procedural interventions.<sup>2</sup>

The NPTE provides a common element in the evaluation of candidates so that standards will be comparable from jurisdiction to jurisdiction, and protects the public interest in having only those persons who have the requisite knowledge of physical therapy be licensed to practice physical therapy.<sup>3</sup> To practice as a PT in the U.S., a person must earn a physical therapy degree from a state approved PT education program, pass the state approved licensure exam, and comply with other state specific licensure requirements. Currently, all entry-level PT education programs in the U.S. only offer the Doctor of Physical Therapy (D.P.T.) degree to all new students who enroll.<sup>4</sup>

##### Physical Therapy Practice in Florida

Physical therapy practitioners are regulated by ch. 486, F.S., the Physical Therapy Practice Act (Act) and the Board of Physical Therapy (Board) under the Department of Health's Division of Medical Quality Assurance.<sup>5</sup>

A licensed PT or a licensed physical therapist assistant (PTA) must practice physical therapy in accordance with the provisions of the Act and the Board rules. There are 15,234 PTs and 8,452 PTAs who hold active licenses in Florida.<sup>6</sup>

##### *Licensure*

To be licensed as a PT, an applicant must be at least 18 years old; be of good moral character; pay \$180 in fees;<sup>7</sup> pass the Laws and Rules Examination offered by the FSBPT within 5 years before the date of application for licensure;<sup>8</sup> meet the general requirements for licensure of all health care practitioners in ch. 456, F.S.; and meet one of the following requirements:

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<sup>1</sup> Section 486.021(11), F.S.

<sup>2</sup> American Physical Therapy Association, *About the National Physical Therapy Examination*, available at <http://www.apta.org/Licensure/NPTE/> (last visited January 4, 2016).

<sup>3</sup> American Physical Therapy Association, *Licensure*, available at <http://www.apta.org/Licensure/> (last visited January 4, 2016).

<sup>4</sup> American Physical Therapy Association, *Physical Therapist (PT) Education Overview*, available at [http://www.apta.org/For\\_Prospective\\_Students/PT\\_Education/Physical\\_Therapist\\_\(PT\)\\_Education\\_Overview.aspx](http://www.apta.org/For_Prospective_Students/PT_Education/Physical_Therapist_(PT)_Education_Overview.aspx) (last visited January 4, 2016).

<sup>5</sup> The Division of Medical Quality Assurance (MQA) regulates health care practitioners to ensure the health, safety, and welfare of the public. There are 22 boards and 6 councils under the MQA, and the MQA regulates 7 types of facilities and more than 200 occupations in over 40 health care professions. Department of Health, Division of Medical Quality Assurance, *Division of Medical Quality Assurance Annual Report and Long-Range Plan, Fiscal Year 2014-2015*, available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1415.pdf> (last visited on January 4, 2016).

<sup>6</sup> Email correspondence with Florida Department of Health MQA staff on October 12, 2015. The number of active licensed PTs and PTAs provided include both in-state and out-of-state licensees as of June 30, 2015.

<sup>7</sup> Section 486.041, F.S., and Rule 64B17-2.001, F.A.C.

<sup>8</sup> Rule 64B17-3.002, F.A.C.

- Have graduated from an accredited PT training program and have passed the National Physical Therapy Examination (NPTE) for PTs offered by the FSBPT within 5 years before the date of application for licensure;<sup>9</sup>
- Have graduated from a PT training program in a foreign country, have had his or her credentials deemed by the Foreign Credentialing Commission on Physical Therapy or other board-approved credentialing agency to be equivalent to those of U.S.-educated PTs and have passed the NPTE for PTs within 5 years before the date of application for licensure;<sup>10</sup> or
- Have passed a board-approved examination and holds an active license to practice physical therapy in another state or jurisdiction if the board determines that the standards for licensure in that state or jurisdiction are equivalent to those of Florida.<sup>11</sup>

A PT's license is renewed every two years by submitting an application, paying an \$80 renewal fee,<sup>12</sup> and submitting proof of completion of 24 hours of continuing physical therapy education. At least 1 hour of education must be on HIV/AIDS, and 2 hours must be on medical error prevention.<sup>13</sup>

### *Title Protection*

Section 486.081(1), F.S., authorizes a licensed PT to use the words "physical therapist" or "physiotherapist," or the letters "P.T." in connection with his or her name or place of business to denote his or her licensure. False representation of a PT license, or willful misrepresentation or false representation to obtain a PT license is unlawful. A list of titles and title acronyms in s. 486.135, F.S., may only be used by a licensed PT.<sup>14</sup>

### *Referrals for Treatment and Treatment Plans*

Every state, the District of Columbia, and the U.S. Virgin Islands allow for evaluation and some form of treatment without physician referral.<sup>15</sup> However, many states impose restrictions on a patient's direct access to physical therapy services, or only allow for treatment without referral under limited circumstances. Twenty-two states, including Florida, allow a PT to treat a patient without a physician's referral, for a limited amount of time.<sup>16</sup>

PTs are trained to recognize signs and symptoms that are outside the scope of their practice. If a patient's condition is outside the scope of physical therapy practice, PTs are often mandated by state law to refer patients to other providers who can provide appropriate care for a patient's condition.<sup>17</sup>

A physical therapy treatment plan establishes the goals and specific remediation techniques that a PT will use in the course of treating a patient.<sup>18</sup> In addition to a treatment plan developed by a PT for their own use, s. 486.021(11)(a), F.S., authorizes a PT to implement a treatment plan provided by a practitioner of record or an advanced registered nurse practitioner licensed under s. 464.012, F.S. Section 486.021(11)(a), F.S., provides that a health care practitioner who is an allopathic or osteopathic

<sup>9</sup> *Id.*

<sup>10</sup> Rule 64B17-3.001, F.A.C.

<sup>11</sup> Rule 64B17-3.003, F.A.C.

<sup>12</sup> The fees vary if a PT has an inactive license and is wishing to reactivate their license. Board of Physical Therapy, *Renewal Information*, available at <http://floridasphysicaltherapy.gov/renewals/> (last visited January 4, 2016).

<sup>13</sup> Board of Physical Therapy, *Renewal Information*, available at <http://floridasphysicaltherapy.gov/renewals/> (last visited January 4, 2016).

<sup>14</sup> Section 486.151, F.S., provides that it is a first-degree misdemeanor if a person fraudulently uses the title "physical therapist," "physical therapist assistant," or any other related title without holding a valid license. A first-degree misdemeanor is punishable by a term of imprisonment not to exceed 1 year and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

<sup>15</sup> American Physical Therapy Association, *FAQ: Direct Access at the State Level*, available at <http://www.apta.org/StateIssues/DirectAccess/FAQs/> (last visited January 4, 2016).

<sup>16</sup> Federation of State Boards of Physical Therapy, *Jurisdiction Licensure Reference Guide: Direct Access*, last updated August 2014, available at [https://www.fsbpt.org/Portals/0/documents/free-resources/JLRG\\_DirectAccess\\_201408.pdf](https://www.fsbpt.org/Portals/0/documents/free-resources/JLRG_DirectAccess_201408.pdf) (last visited December 21, 2015).

<sup>17</sup> *Supra* fn. 15.

<sup>18</sup> Rule 64B17-6.001, F.A.C.

physician, chiropractor, podiatrist, or dentist, that is actively engaged in practice is eligible to serve as a practitioner of record.

Currently, a PT may implement a treatment plan for a patient without a written order from a practitioner of record if the recommended treatment plan is performed within a 21-day timeframe. If the treatment plan requires treatment beyond 21 days, the condition must be assessed by a practitioner of record who is required to review and sign the treatment plan.<sup>19</sup>

A PT is not allowed to implement any treatment plan that, in the PT's judgment, is contraindicated. If the treatment plan was requested by a referring practitioner, the PT must immediately notify the referring practitioner that he or she is not going to follow the request and the reasons for such refusal.<sup>20</sup>

## **Effect of Proposed Changes**

### Treatment Plan and Referral for Treatment

Currently, a PT must have a practitioner of record review and sign a patient's treatment plan if physical therapy treatment is required beyond 21 days for a condition not previously assessed by a practitioner of record.<sup>21</sup> The bill expands this timeframe from 21 days to 30 days. The bill also exempts a PT from this requirement when a patient has been physically examined by a physician licensed in another state and diagnosed by that physician as having a condition for which physical therapy is required.<sup>22</sup>

### Title Protection

All of Florida's physical therapy educational programs are three-year doctoral programs.<sup>23</sup> The bill adds the new title acronym "D.P.T.," which may be used by a PT who has obtained a doctoral degree in physical therapy in connection with his or her name or place of business. However, this bill allows the title "doctor" to only be used by a PT who holds a physical therapy doctoral degree, and only if the public is informed that his or her profession is physical therapy.

Pursuant to s. 486.151, F.S., a person who uses any name or title which would lead the public to believe that the person using the name or title is licensed to practice physical therapy, and the person is not licensed to perform such practice, commits a first-degree misdemeanor. The bill amends s. 486.135, F.S., to make it unlawful for a person to use, in connection with his or her place of business, the title acronym "D.P.T.," unless the person holds an active license as a PT, and cross-references s. 486.151, F.S., to make the unlawful act a first degree misdemeanor.

Current law prohibits the use of any words, letters, abbreviations, or insignia indicating or implying that a person is a physical therapist or physical therapist assistant, unless licensed as such. Therefore, the bill deletes listed title abbreviations that may not be used by unlicensed persons, because the prohibition against the use of each listed title is redundant.

The bill provides that it shall take effect upon becoming a law.

## **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 486.021, F.S., relating to definitions.

**Section 2.** Amends s. 486.081, F.S., relating to physical therapist; issuance of license without examination to person passing examination of another authorized examining board; fee.

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<sup>19</sup> Section 486.021(11)(a), F.S.

<sup>20</sup> *Supra* fn. 18.

<sup>21</sup> A practitioner of record, includes allopathic (ch. 458, F.S.) or osteopathic physicians (ch. 459, F.S.), chiropractors (ch. 460, F.S.), podiatrists (ch. 461, F.S.), or dentists (ch. 466, F.S.).

<sup>22</sup> This allows physical therapy patients, who have a seasonal residence in Florida, to obtain uninterrupted physical therapy treatment if their out of state licensed physician has recommended physical therapy treatment for a certain condition.

<sup>23</sup> Florida has eleven Doctor of Physical Therapy educational programs. Florida Physical Therapy Association, *Florida PT Schools*, available at <http://fta.site-ym.com/?page=272> (last visited December 21, 2015).

**Section 3.** Amends s. 486.135, F.S., relating to false representation of licensure, or willful misrepresentation or fraudulent representation to obtain license, unlawful.

**Section 4.** Amends s. 486.151, F.S., relating to prohibited acts; penalty.

**Section 5.** Provides an effective date of upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOH may incur a recurring increase in workload associated with additional practitioner complaints, which current resources are adequate to absorb.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES