

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 515 Physical Therapy  
**SPONSOR(S):** Health Quality Subcommittee; Cummings  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	10 Y, 3 N, As CS	Castagna	O'Callaghan
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

### 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.

CS/HB 515 amends the definition of "physical therapist" to state that a physical therapist is responsible for managing all aspects of the physical therapy care of a patient and to list services that the physical therapist must provide. The bill also amends the definition of "practice of physical therapy" to include new therapeutic techniques that a physical therapist is authorized to perform.

The bill requires consultation with, or referral to, a practitioner of record if a patient's condition is found to be outside the scope of practice of physical therapy and requires a practitioner of record to review and sign a treatment plan for a patient when treatment is required beyond 42 days. The bill retains the current definition of practitioner of record, which includes allopathic or osteopathic physicians, chiropractors, podiatrists, or dentists.

The bill also requires a physical therapist to implement a treatment plan provided by a practitioner of record or an advanced registered nurse practitioner, or implement a treatment plan developed by the physical therapist.

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

The bill provides an effective date of July 1, 2015.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### Physical Therapy in the United States

Physical Therapists (PT) are licensed or certified in all 50 states. State licensure ensures that a PT meets prescribed standards established by relevant state laws and regulatory boards. 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>1</sup>

The NPTE program 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>2</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 a state licensure exam, and comply with other state specific licensure requirements. Currently, all entry-level PT education programs in the United States only offer the Doctor of Physical Therapy (D.P.T.) degree to all new students who enroll.<sup>3</sup>

##### *Scope of Practice*

Physical therapy is provided for individuals of all ages who have or may develop impairments, activity limitations, and participation restrictions related to conditions of the musculoskeletal, neuromuscular, cardiovascular, pulmonary, and/or integumentary<sup>4</sup> systems. PTs are providers of rehabilitation and habilitation, performance enhancement, and prevention and risk-reduction services.<sup>5</sup>

There is variance among the scope of practice of PTs among the states. The NPTE categories, and the American Physical Therapy Association's (APTA) professional scope of practice guidelines,<sup>6</sup> provide detailed information about the accepted techniques and procedures performed by PTs. Some examples include:

- Examining individuals with impairment, functional limitation, and disability or other health-related conditions in order to determine a diagnosis, prognosis, and intervention. Tests and measures may include assessment of a wide variety of anatomical and psychological functions such as:
  - Muscular and cardiovascular endurance;
  - Joint mobility, range of motion, body mechanics, and posture;
  - Pain;
  - Self-care and activities of daily living;
  - Sensory ability; and
  - Arousal, attention, and cognition;
- Alleviating impairment, functional limitation, and disabilities by designing, implementing, and modifying therapeutic interventions that include, but are not limited to:
  - Therapeutic exercise;
  - Manual therapy techniques, including mobilization or manipulation;

<sup>1</sup> American Physical Therapy Association, *Licensure*, available at <http://www.apta.org/Licensure/> (last visited March 9, 2015).

<sup>2</sup> *Id.*

<sup>3</sup> American Physical Therapy Association, *Physical Therapy Education Overview*, available at [http://www.apta.org/For\\_Pro prospective\\_Students/PT\\_Education/Physical\\_Therapist\\_\(PT\)\\_Education\\_Overview.aspx](http://www.apta.org/For_Pro prospective_Students/PT_Education/Physical_Therapist_(PT)_Education_Overview.aspx) (last visited March 8, 2015).

<sup>4</sup> Integumentary system is the skin organ.

<sup>5</sup> American Physical Therapy Association, *The Physical Therapist Scope of Practice*, available at <http://www.apta.org/ScopeOfPractice/> (last visited March 5, 2015).

<sup>6</sup> *Id.*

- Prescription, application, and, as appropriate, fabrication of devices and equipment (assistive, adaptive, orthotic, protective, supportive, and prosthetic);<sup>7</sup>
- Airway clearance techniques;<sup>8</sup>
- Integumentary repair and protection techniques;<sup>9</sup>
- Electrotherapeutic modalities;<sup>10</sup> and
- Physical agents.<sup>11,12</sup>

### *Referral for Treatment*

All 50 states allow a PT to evaluate and treat a patient in some manner without a physician's referral.<sup>13</sup> However, many states impose restrictions on a patient's direct access to physical therapy services, or only allow for treatment without referral under very limited circumstances. Twenty states, including Florida, have patient treatment time restrictions prior to requiring a referral to another practitioner.<sup>14</sup> These restrictions can cause delays in a PT's services to individuals. Delays in care may result in higher costs, decreased functional outcomes, and frustration to patients seeking physical therapy treatment.<sup>15</sup>

PTs are trained to recognize signs and symptoms that are outside the scope of their practice. They are able, and often mandated by state law, to refer patients to other providers who can provide appropriate care for patients' conditions.<sup>16</sup> Evidence from the FSBPT and a leading liability carrier,<sup>17</sup> has shown that there is no increased risk to patients in states that do not mandate referral before the provision of physical therapy services.<sup>18</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>19</sup>

<sup>7</sup> Physical therapists help patients apply and adjust devices and equipment such as crutches, wheelchairs, braces, slings, and supplemental oxygen. American Physical Therapy Association, *Minimum Required Skill of Physical Therapist Assistant Graduates*, available at: [http://www.apta.org/uploadedFiles/APTAorg/About\\_Us/Policies/Education/MinimumRequiredSkillsPTAGrads.pdf](http://www.apta.org/uploadedFiles/APTAorg/About_Us/Policies/Education/MinimumRequiredSkillsPTAGrads.pdf). (last visited March 9, 2015).

<sup>8</sup> Airway clearance techniques are used to remove mucus from the lungs to improve lung function. Techniques usually consist of coughing and cough stimulation techniques, breathing exercises, ventilation devices, and postural drainage which requires a patient to move into various postures to drain mucus from different lung parts to be expelled. University of Rochester Medical Center, *Airway Clearance Techniques*, available at <https://www.urmc.rochester.edu/urmcmedia/childrens-hospital/pulmonology/cystic-fibrosis/documents/airwaytechniques.pdf> (last visited March 5, 2015).

<sup>9</sup> Integumentary or skin repair in physical therapy is most related to wound treatment. Debridement is a common method used to help wounds heal, it requires removing dead skin cells to allow healthy skin underneath to heal. Debridement may require use of sharp tools and some states require a physician's referral for this treatment. McCulloch, Joseph, *The Integumentary System-Repair and Management: An Overview*, available at: <http://web.missouri.edu/~danneckere/pt316/case/wound/integumentaryCE.pdf>. (last visited March 5, 2015).

<sup>10</sup> This type of treatment uses weak electrical currents to induce muscular stimulation. Some specific forms are biofeedback and iontophoresis. National Institutes of Health, Medline Plus, *Iontophoresis*, available at <http://www.nlm.nih.gov/medlineplus/ency/article/007293.htm>. (last visited March 5, 2015).

<sup>11</sup> Physical agents is a broad way of referring to hydrotherapy, light agents, heat therapy, and cryotherapy. American Physical Therapy Association, *Guidelines: Defining Physical Therapy in State Practice Acts*, available at [http://www.apta.org/uploadedFiles/APTAorg/About\\_Us/Policies/Practice/DefiningPhysicalTherapyStatePracticeActs.pdf](http://www.apta.org/uploadedFiles/APTAorg/About_Us/Policies/Practice/DefiningPhysicalTherapyStatePracticeActs.pdf). (last visited March 5, 2015).

<sup>12</sup> *Supra* fn. 5.

<sup>13</sup> American Physical Therapy Association, *FAQ: Direct Access at the State Level*, available at <http://www.apta.org/StateIssues/DirectAccess/FAQs/> (last visited March 8, 2015).

<sup>14</sup> Federation of State Boards of Physical Therapy, *Jurisdiction Licensure Reference Guide*, available at <https://www.fsbpt.org/FreeResources/RegulatoryResources/LicensureReferenceGuide.aspx>. (last visited March 9, 2015).

<sup>15</sup> *Supra* fn. 13.

<sup>16</sup> American Physical Therapy Association, *Summary of Direct Access Language in State Physical Therapy Practice Acts*, available at <http://www.apta.org/StateIssues/DirectAccess/FAQs/> (last visited March 8, 2015).

<sup>17</sup> The Healthcare Providers Service Organization offers professional liability insurance and risk management information to a wide array of healthcare and counseling professionals. Healthcare Providers Service Organization, *HPSO News*, available at <http://www.hpso.com/> (last visited March 9, 2015).

<sup>18</sup> *Supra* fn. 13.

<sup>19</sup> MQA regulates health care practitioners to ensure the health, safety and welfare of the public. There are 22 boards and 8 councils under the MQA, and the MQA licenses 7 types of facilities and 200-plus occupations in more than 40 health care professions.

A licensed physical therapist (PT) or a licensed physical therapist assistant (PTA) must practice physical therapy in accordance with the provisions of the Act and the Board rules. Currently, there are 15,751 PTs and 8,652 PTAs who hold active licenses in Florida.<sup>20</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>21</sup> pass the Laws and Rules Examination offered by the FSBPT within 5 years before the date of application for licensure;<sup>22</sup> meet the general requirements for licensure of all health care practitioners in ch. 456, F.S.; and meet one of the following requirements:

- 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>23</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>24</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 as high as those of Florida.<sup>25</sup>

A PT's license is renewed every two years by submitting an application, paying an \$80 renewal fee, 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>26</sup>

### *Scope of Practice*

Physical therapy is defined in s. 468.021(11), F.S., as 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>27</sup> A PT may use tests of neuromuscular functions as an aid to diagnose and treat various conditions.<sup>28</sup> A PT is also authorized to use electromyography, which is a diagnostic procedure used to assess the health of muscles and the nerves that control them.<sup>29</sup> A PT's professional responsibilities include:

- Interpretation of a practitioner's referral;
- Delivery of the initial physical therapy assessment of the patient;
- Identification of and documentation of precautions, special problems, contraindications;
- Development of a treatment plan for a patient including the long and short term goals;
- Implementation of or directing implementation of the treatment plan;
- Delegation of appropriate tasks;
- Direction and supervision of supportive staff in a manner appropriate for the patient's individual needs;

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<sup>20</sup> Email correspondence with Florida Dep't of Health MQA staff on February 20, 2015 (on file with committee staff).

<sup>21</sup> Section 486.041, F.S., and Rule 64B17-2.001, F.A.C.

<sup>22</sup> Rule 64B17-3.002, F.A.C.

<sup>23</sup> *Id.*

<sup>24</sup> Rule 64B17-3.001, F.A.C.

<sup>25</sup> Rule 64B17-3.003, F.A.C.

<sup>26</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 March 8, 2015).

<sup>27</sup> Physical therapists often help patients apply and adjust equipment such as crutches, wheelchairs, and braces.

<sup>28</sup> Section 486.021 (11), F.S.

<sup>29</sup> Specific education and practical training is required before physical therapists may perform electromyography. Rule 64B17-6.003, F.A.C.

- Reassessment of the patient in reference to goals and, when necessary, modification of the treatment plan; and
- Collaboration with members of the health care team when appropriate.<sup>30</sup>

A PT must refer a patient to, or consult with, a practitioner of record if a patient's condition is found to be outside the scope of physical therapy. Section 468.021, F.S., limits treatments that PTs may provide or what procedures may be performed for diagnosing a condition. For example, a PT may not use roentgen rays and radium for diagnostic or therapeutic purposes or electricity for surgical purposes, including wound care.<sup>31</sup> In addition, a PT may not practice chiropractic medicine, including specific spinal manipulation, and must refer a patient with the need for such to a chiropractor licensed under ch. 460, F.S.<sup>32</sup> Moreover, a PT is not authorized to implement a plan for a patient being treated in a hospital or an ambulatory surgical center licensed under ch. 395, F.S.<sup>33</sup>

A PT is also required to keep written medical records justifying the course of treatment for a patient.<sup>34</sup>

#### *Treatment Plan and Referral for Treatment*

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>35</sup> In addition to a treatment plan developed by a PT for their own use, s. 468.021(11)(a), F.S., authorizes a PT to implement a treatment plan provided by a practitioner of record or an advanced registered nurse practitioner. Section 486.021(11)(a), F.S., provides that a health care practitioner who is an allopathic or osteopathic 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>36</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>37</sup>

#### *Title Protection*

Section 468.081(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 abbreviations in s. 486.135, F.S., may only be used by a licensed PT.<sup>38</sup>

### **Effect of Proposed Changes**

#### *Practice Standards*

CS/HB 515 amends the definition of "physical therapist" to require the performance of certain acts by a physical therapist. Specifically, a physical therapist must:

<sup>30</sup> Rule 64B17-6.001, F.A.C.

<sup>31</sup> Section 486.021(11)(b), F.S.

<sup>32</sup> Section 486.021(11)(c), F.S.

<sup>33</sup> Section 486.021(11)(d), F.S.

<sup>34</sup> *Supra* fn. 30.

<sup>35</sup> *Id.*

<sup>36</sup> This may cause burdensome waiting periods for patients whose treatment plan requires a practitioner's approval for continuance of their physical therapy treatment. Section 486.021(11)(a), F.S.

<sup>37</sup> Rule 64B17-6.001, F.A.C.

<sup>38</sup> Section 468.151, 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.

- Perform an initial evaluation of a patient;
- Create a treatment and intervention plan;
- Determine the patient's diagnosis or prognosis;
- Conduct a periodic reevaluation of each patient and related documentation;
- Document each patient visit and the patient's discharge from treatment, including the patient's response to treatment and intervention; and
- Communicate the overall plan of care with the patient or the patient's legally authorized representative.

### *Scope of Practice*

The bill amends the definition of "practice of physical therapy" in s. 486.021(11), F.S., to authorize a physical therapist to examine, evaluate, and test a client with:

- Mechanical, physiological, and developmental impairments;
- Functional limitations; or
- Other health and movement related conditions.

The definition of "practice of physical therapy" is also amended to authorize new therapeutic treatment procedures, including the use of:

- Functional training related to movement and mobility in self-care and in home;
- Techniques for work or community integration or reintegration;
- Manual therapy,<sup>39</sup> without the use of a filiform needle, including soft tissue and joint mobilization or manipulation, with the exception of specific chiropractic manipulation;
- Airway clearance techniques;
- Integumentary protection and repair techniques;
- Debridement and wound care;
- Patient-related instruction; and
- Apparatus and equipment.

The bill removes the authority of PTs to use specific modes of treatment in s. 468.021(11), F.S., including the use of radiant energy and ultrasound. However, the bill authorizes PTs to use "mechanical and electrotherapeutic modalities," which would include the deleted modes of treatment.

The bill also authorizes PTs to engage in physical injury, disability, and impairment prevention through methods such as maintenance of fitness, health, and wellness in patients. PTs are also authorized to engage in administration, consultation, education, and research.

### *Treatment Plan and Referral for Treatment*

The definition of "physical therapist" in s. 486.021(5), F.S., is amended to require a PT to consult with, or refer to, a practitioner of record, if a patient's condition is found to be outside the scope of practice of physical therapy. The bill requires that a PT have a practitioner of record review and sign a patient's treatment plan if treatment is required beyond 42 days. The bill retains the current definition of practitioner of record, which 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.).

The bill removes the requirement that a PT refer a patient to a chiropractor licensed under ch. 460, F.S., for specific spinal manipulation. However, the bill prohibits a PT from practicing chiropractic medicine, including spinal manipulation, and, as previously mentioned, requires a PT to refer a patient to a practitioner of record if the patient's condition is outside the scope of physical therapy.

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<sup>39</sup> Manual therapy without the use of a filiform needle means that physical therapists will not be able to perform acupuncture procedures.

The bill provides an effective date of July 1, 2015.

**B. SECTION DIRECTORY:**

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

**Section 2.** Amends s. 486.025, F.S., relating to powers and duties of the Board of Physical Therapy Practice.

**Section 3.** Provides an effective date of July 1, 2015.

**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.<sup>40</sup>

**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.

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<sup>40</sup> Florida Department of Health, 2015 Agency Legislative Analysis HB 515, January 30, 2015, (on file with committee staff).

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 12, 2015, the Health Quality Subcommittee adopted a strike all amendment to the bill and reported the bill favorably as a committee substitute. The amendment:

- Requires physical therapists to have a practitioner of record review and sign a treatment plan for a patient when treatment is required beyond 42 days, instead of 21 days, for a condition not previously assessed by a practitioner of record.
- Clarifies that physical therapists may only perform certain techniques, including:
  - Functional training related to movement and mobility;
  - Manual therapy without the use of a filiform needle; and
  - The use of apparatus and equipment while practicing physical therapy techniques.
- Requires a physical therapist to implement a treatment plan developed by certain practitioners or a treatment plan developed by the physical therapist.
- Removes the authority of the Board of Physical Therapy to issue advisory opinions.
- Reinstates current law pertaining to the use of certain titles and title abbreviations by physical therapists or the unlawful use of such titles and abbreviations by others.

The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute.