

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 413 Physical Therapy
SPONSOR(S): Health Quality Subcommittee; Hutson and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 536

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	11 Y, 0 N, As CS	Holt	O'Callaghan
2) Health & Human Services Committee	16 Y, 0 N	Holt	Calamas

SUMMARY ANALYSIS

CS/HB 413 amends s. 486.021(11), F.S., the definition of the practice of physical therapy, to authorize a physical therapist (PT) to implement a treatment plan provided by an advanced registered nurse practitioner (ARNP). Moreover, the bill clarifies that a PT may continue to implement their own treatment plans or those provided by a practitioner of record as long as the patient's condition is within the scope of physical therapy practice and the treatment timeframe is under 21 days.

The bill makes numerous technical changes by restructuring the definition to improve organizational structure and deletes unnecessary words to improve readability.

This bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Medical Quality Assurance

The Department of Health (DOH), Division of Medical Quality Assurance (MQA), regulates health care practitioners to ensure the health, safety and welfare of the public. Currently, MQA works in conjunction with 22 boards and 6 councils to regulate activities of 200-plus license types in 41 health care professions and 8 types of facilities. MQA's three core business processes are the licensure of and enforcement of laws and rules governing Florida's 1,059,958 health care practitioners and facilities, as well as providing information and data to the public.¹

Boards

A board is a statutorily created entity that is authorized to exercise regulatory or rulemaking functions within the MQA.² Boards are responsible for approving or denying applications for licensure and making disciplinary decisions on whether a practitioner practices within the authority of their practice act. Practice acts refer to the legal authority in state statute that grants a profession the authority to provide services to the public. The range of disciplinary actions taken by a board includes citations, suspensions, reprimands, probations, and revocations.

Physical Therapy Practice

Physical therapy 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 electricity, exercise, massage, ultrasound, and water.³

Physical therapy practitioners are regulated by ch. 486, F.S., the Physical Therapy Practice Act. A physical therapy practitioner is considered either a physical therapist (PT) or a physical therapist assistant (PTA) who is licensed and who practices physical therapy.⁴

As of November 1, 2012, there are 11,596 PTs, and 6,140 PTAs who hold active, in-state licenses to practice in Florida.⁵

To be licensed as a PT, an applicant must be at least 18 years old; be of good moral character; pay \$180 in fees⁶; pass the Laws and Rules Examination⁷ offered by the Federation of State Boards of Physical Therapy (FSBPT) within 5 years before the date of application for licensure;⁸ 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.

¹ Florida Department of Health, Division of Medical Quality Assurance, *About Medical Quality Assurance*, available at: <http://doh.state.fl.us/mqa/wearemqa.htm> (last viewed February 10, 2013).

² Section 456.001, F.S.

³ Section 486.021(11), F.S.

⁴ Section 486.021(7), F.S.

⁵ Florida Department of Health, Division of Medical Quality Assurance, *2011-2012 MQA Annual Report*, pg. 39, available at: <http://doh.state.fl.us/mqa/reports.htm> (last viewed February 10, 2013).

⁶ See Section 486.041, F.S., and Rule 64B17-2.001, F.A.C.

⁷ A separate \$25 application fee is required per Rule 64B17-2.001 and Rule 64B-1.016, F.A.C., for the Laws and Rules Examination.

⁸ See Section 486.031, F.S., and Rules 64B17-3.001, 64B17-3.002, and 64B17-3.003, F.A.C.

- 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.
- 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 this state.⁹

Licenses must be renewed biennially for a \$75 fee.¹⁰ Continuing education of 24 hours per biennium is also required. At least 1 hour of education must be on HIV/AIDS, and 2 hours must be on medical error prevention.¹¹

Licensure requirements for PTAs are the same as those for PTs except that applicants must have graduated from an approved PTA training program, passed the NPTE for PTAs, or hold an active PTA license in another state or jurisdiction. Licensure fees and continuing education requirements are also the same.¹²

The physical therapist's professional responsibilities include:¹³

- Interpretation of the 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 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.
- Reassessment of the patient in reference to goals and, when necessary, modification of the treatment plan.
- Collaboration with members of the health care team when appropriate.

A program plan, in practice referred to as a treatment plan, establishes the objectives (goals) and specific remediation techniques that a PT will use in the course of treating a patient.¹⁴ Currently, PTs 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.¹⁵ Section 486.021(11), 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. Advanced registered nurse practitioner's (ARNP's) are not eligible to serve as a practitioner of record. However, the Nurse Practice Act authorizes ARNP's to order physical and occupational therapy.¹⁶

A PT is not allowed to implement any treatment plan that, in the physical therapist'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.¹⁷

⁹ Rule 64B17-3.003, F.A.C.

¹⁰ Rule 64B17-2.005(1), F.A.C.

¹¹ Rules 64B17-8.001, and 64B17-8.002, F.A.C.

¹² Rules 64B17-4.001, 64B17-4.002, and 64B17-4.003, F.A.C.

¹³ Rule 64B17-6.001, F.S.

¹⁴ Rule 64B17-6.001, F.A.C.

¹⁵ Section 486.021, F.S.

¹⁶ Section 464.012(4)(c)2., F.S.

¹⁷ Rule 64B17-6.001, F.A.C.

PTs are limited as to what treatment may be provided or what procedures may be performed for diagnosing a condition. For example, a PT may not use roentgen rays¹⁸ and radium for diagnostic or therapeutic purposes or electricity for surgical purposes, including cauterization. In addition, a PT may not practice chiropractic medicine, including specific spinal manipulation.¹⁹ Moreover, PTs are 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.

Advanced Registered Nurse Practitioners

Part I of ch. 464, F.S., governs the licensure and regulation of nurses in Florida. Nurses are licensed by the DOH, and are regulated by the Board of Nursing.

Licensure requirements to practice professional nursing include completion of education and training requirements,²⁰ demonstration of passage of a department-approved examination²¹, a clean criminal background screening, and payment of applicable fees.²² Renewal is biennial and is contingent upon completion of certain continuing medical education requirements.

A nurse who holds a license to practice professional nursing may be certified as an advanced registered nurse practitioner (ARNP) under s. 464.012, F.S., if the nurse meets one or more of the following requirements:

- Completion of a post-basic education program of at least one academic year that prepares nurses for advanced or specialized practice;
- Certification by a specialty board, including boards for registered nurse anesthetists or nurse midwives; or
- Possession of a master's degree in a nursing clinical specialty area.

Current law defines three categories of ARNPs: certified registered nurse anesthetists, certified nurse midwives, and nurse practitioners.²³ All ARNPs, regardless of practice category, may only practice within the framework of an established protocol and under the supervision of an allopathic or osteopathic physician or a dentist.

ARNPs may carry out treatments as specified in statute, including:²⁴

- Monitoring and altering drug therapies;
- Initiating appropriate therapies for certain conditions;
- Performing additional functions as may be determined by rule in accordance s. 464.003(2), F.S., which provides for such advanced or specialized nursing practices;²⁵ and
- Ordering diagnostic tests and physical and occupational therapy.

In addition to the above permitted acts, ARNPs may perform other acts as permitted in statute within the specialty.²⁶ If it is within an established protocol, an ARNP may also diagnose behavioral problems and make treatment recommendations.²⁷ PTs are not expressly authorized to implement treatment plans from ARNPs.

¹⁸ Roentgen rays can penetrate most substances and are used to investigate the integrity of certain structures, to therapeutically destroy diseased tissue, and to make radiographic images for diagnostic purposes, as in radiography and fluoroscopy. Mosby's Medical Dictionary, 8th edition, (2009).

¹⁹ *Id.*

²⁰ Rule 64B9-4.003, F.A.C., provides that an Advanced Nursing Program shall be at least one year long and shall include theory in the biological, behavioral, nursing and medical sciences relevant to the area of advanced practice in addition to clinical expertise with a qualified preceptor.

²¹ Section 464.008, F.S.

²² Section 464.009, F.S., provides an alternative to licensure by examination for nurses through licensure by endorsement.

²³ Section 464.012(2), F.S.

²⁴ Section 464.012(3), F.S.

²⁵ Section 464.003(2), F.S., defines "Advanced or Specialized Nursing Practice" to include additional activities that an ARNP may perform as approved by the Board of Nursing.

²⁶ Section 464.012(4), F.S.

²⁷ Section 464.012(4)(c)5, F.S.

There are 14,440 active, licensed ARNPs in Florida.²⁸

Effect of Proposed Changes

The bill amends s. 486.0219(11), F.S., the definition of the practice of physical therapy, to authorize PTs to implement treatment plans provided by licensed ARNPs. Additionally, the bill clarifies that PTs may continue to implement their own treatment plans for patients or those treatment plans provided by a currently licensed and actively practicing practitioner of record²⁹. As under current law, a PT will still only be able to implement a treatment plan for a patient as long as the patient's condition is within the scope of physical therapy practice and the treatment timeframe is under 21 days.

The bill makes numerous technical changes by restructuring the definition to improve organizational structure and deletes unnecessary words to improve readability.

B. SECTION DIRECTORY:

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

Section 2. Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

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.

²⁸ *Supra* note 5.

²⁹ *Supra* note 16.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The board has sufficient authority in s. 486.025, F.S., to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 12, 2013, the Health Quality Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment restores current authority that authorizes a PT to implement his or her own treatment plans.

This analysis is drafted to the committee substitute as passed by the Health Quality Subcommittee.