

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 515 Physical Therapy

SPONSOR(S): Health & Human Services Committee; 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 & Human Services Committee	12 Y, 4 N, As CS	Castagna	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 42 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.

Physical therapists are currently authorized to implement a treatment plan developed by the physical therapist, or a treatment plan provided for a patient by a practitioner of record or by an advanced registered nurse practitioner. The bill authorizes a physical therapist to also implement a treatment plan provided by a physician licensed in another state.

The bill adds the new title acronym "D.P.T.", which may be used by a licensed physical therapist who has obtained a doctoral degree in physical therapy. The bill only allows the title "doctor" to be used by a physical therapist who holds a degree of Doctor of Physical Therapy or other doctoral degree, if the public is informed that his or her profession is physical therapy. The bill also deletes redundant language currently associated with title protection for physical therapy assistants.

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 an active license as a 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 (PTs) are licensed in all 50 states. State licensure ensures that a PT meets prescribed standards established by relevant state laws and regulatory boards.¹ Many 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.²

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.³ 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 United States only offer the Doctor of Physical Therapy (D.P.T.) degree to all new students who enroll.⁴

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 integumentary⁵ systems. PTs are providers of rehabilitation and habilitation, performance enhancement, and prevention and risk-reduction services.⁶

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,⁷ 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 and intervention plan. Examination 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:

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

² American Physical Therapy Association, *About the National Physical Therapy Examination*, available at <http://www.apta.org/Licensure/NPTE/> (last visited March 22, 2015).

³ *Supra* fn. 1.

⁴ 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).

⁵ Integumentary system is the skin organ.

⁶ American Physical Therapy Association, *Professional Scope of Physical Therapy Practice*, available at <http://www.apta.org/ScopeOfPractice/Professional/> (last visited March 5, 2015).

⁷ *Id.*

- Therapeutic exercise;
- Manual therapy techniques, including mobilization or manipulation;
- Prescription, application, and, as appropriate, fabrication of devices and equipment (assistive, adaptive, orthotic, protective, supportive, and prosthetic);⁸
- Airway clearance techniques;⁹
- Integumentary repair and protection techniques;¹⁰
- Electrotherapeutic modalities;¹¹ and
- Physical agents.^{12,13}

Referral for Treatment

The majority of states allow a PT to evaluate and treat a patient in some manner without a physician's referral.¹⁴ 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 states, including Florida, allow a PT to treat a patient without a physician's referral, for a limited amount of time.¹⁵ For example, in Florida, a PT may treat a patient without referral from a practitioner of record¹⁶ if the physical therapy treatment is within a 21 day timeframe, after 21 days, a practitioner of record must review and sign a patient's physical therapy treatment plan.¹⁷

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.¹⁸

⁸ PTs 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. (last visited March 9, 2015).

⁹ 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).

¹⁰ 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).

¹¹ 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).

¹² 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. (last visited March 5, 2015).

¹³ *Supra* fn. 6.

¹⁴ 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).

¹⁵ 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).

¹⁶ A practitioner of record includes allopathic or osteopathic physicians, chiropractors, podiatrists, or dentists. Section 486.021(11)(a), F.S.

¹⁷ *Id.*

¹⁸ *Supra* fn. 14.

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.¹⁹

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. Currently, there are 15,751 PTs and 8,652 PTAs who hold active licenses in Florida.²⁰

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;²¹ pass the Laws and Rules Examination offered by the FSBPT within 5 years before the date of application for licensure;²² 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;²³
- 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;²⁴ 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.²⁵

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.²⁶

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.²⁷

Scope of Practice

Physical therapy is defined in s. 486.021(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,

¹⁹ 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.

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

²¹ Section 486.041, F.S., and Rule 64B17-2.001, F.A.C.

²² Rule 64B17-3.002, F.A.C.

²³ *Id.*

²⁴ Rule 64B17-3.001, F.A.C.

²⁵ Rule 64B17-3.003, F.A.C.

²⁶ 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).

²⁷ 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.

massage, ultrasound, ice, heat, water, and equipment.²⁸ A PT may use tests of neuromuscular functions as an aid to diagnose and treat various conditions.²⁹ 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.³⁰ 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;
- 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.³¹

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.³² 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.³³ 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.³⁴

A PT is also required to keep written medical records justifying the course of treatment for a patient.³⁵

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.³⁶ 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 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.³⁷

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.³⁸

²⁸ PTs often help patients apply and adjust equipment such as crutches, wheelchairs, and braces.

²⁹ Section 486.021 (11), F.S.

³⁰ Specific education and practical training is required before PTs may perform electromyography. Rule 64B17-6.003. F.A.C.

³¹ Rule 64B17-6.001, F.A.C.

³² Section 486.021(11)(b), F.S.

³³ Section 486.021(11)(c), F.S.

³⁴ Section 486.021(11)(d), F.S.

³⁵ *Supra* fn. 31.

³⁶ *Id.*

³⁷ 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.

³⁸ Rule 64B17-6.001, F.A.C.

Effect of Proposed Changes

Physical Therapy Practice in Florida

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.³⁹ The bill expands this timeframe from 21 days to 42 days. The bill also exempts a PT from this requirement when a patient has been previously assessed by a physician licensed in another state.⁴⁰

Section 486.021(11)(a), F.S., authorizes a PT to implement a treatment plan provided for a patient by a practitioner of record, or an advanced registered nurse practitioner licensed under s. 464.012, F.S., or implement a treatment plan developed by the PT. The bill authorizes a PT to also implement a treatment plan provided for a patient by a physician licensed in another state.

Title Protection

All of Florida's physical therapy educational programs are three-year doctoral programs.⁴¹ The bill adds the new title acronym "D.P.T." that 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 only allows the title "doctor" to be used by a PT who holds a degree of Doctor of Physical Therapy or other 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. However, s. 486.135, F.S., does not provide a penalty for this unlawful act.

The bill also deletes the prohibition in current law of the use of specific titles and title acronyms used by PTAs. Specifically the bill deletes the prohibition in current law of the use of:

- Licensed physical therapist assistant;
- Registered physical therapist assistant;
- Physical therapy technician;
- L.P.T.A.;
- R.P.T.A.; and
- P.T.T.

However, PTAs will continue to have title protection because the bill does not affect current law which states that it is unlawful to use any other titles and title acronyms associated with PTAs if one is not a licensed PTA.⁴²

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

B. SECTION DIRECTORY:

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

³⁹ 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.).

⁴⁰ 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.

⁴¹ Florida has eleven doctor of physical therapy educational programs. Florida Physical Therapy Association, *Florida PT Schools*, available at http://www.fpta.org/?page=272#U_of_FL (last visited April 1, 2015).

⁴² Section 486.151, F.S.

- 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.
- 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.** 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.⁴³

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:

It is unclear if penalties under s. 486.151, F.S., would apply when a person who holds an active physical therapy license, but does not hold a doctoral degree in physical therapy, uses the title acronym "D.P.T."

⁴³ Florida Department of Health, 2015 Agency Legislative Analysis HB 515, January 30, 2015, (on file with committee staff).

Without a cross reference to the penalties listed in s. 486.151, F.S., it is unclear whether the unlawful acts listed in s. 486.135, F.S., are subject to a first degree misdemeanor.

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 abbreviate
- ons by others.

On April 1, 2015, the Health & Human Services committee adopted a strike all amendment to the bill and reported the bill favorably as a committee substitute. The amendment:

- Allows a physical therapist to implement a patient treatment plan provided by a physician licensed in another state.
- Requires a physical therapist to have a practitioner of record review and sign a treatment plan for a patient when physical therapy treatment is required beyond 42 days, instead of 21 days, for a condition not previously assessed by a practitioner of record or by a physician licensed in another state.
- Allows a licensed physical therapist who has obtained a doctoral degree to use the title acronym "D.P.T."
- Allows the title "doctor" to be used by a physical therapist who holds a degree of Doctor of Physical Therapy or other doctoral degree, only if the public is informed that his or her profession is physical therapy.
- Deletes redundant language in current law associated with title protection for physical therapy assistants.

The analysis is drafted to the committee substitute.