

SESSION OF 2013

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 46**

As Amended by Senate Committee on Public  
Health and Welfare

**Brief\***

SB 46 would amend the Physical Therapy Practice Act to allow physical therapists to initiate a physical therapy treatment without referral from a licensed health care practitioner. Under current law, physical therapists are allowed only to evaluate patients without physician referrals and to initiate treatment after approval by certain health care providers.

The bill would require physical therapists, in instances where treatment of a patient occurs without a referral, to obtain a referral from an appropriate licensed health care practitioner to continue treatment:

- If, after ten patient visits or a period of 15 business days from the initial treatment visit (follows the initial evaluation), whichever event occurs first, the patient is not progressing toward documented treatment goals as demonstrated by objective, measurable or functional improvement, or any combination of these criteria.
  - A physical therapist is required to transmit a copy of the initial evaluation to the licensed health care practitioner, identified by the patient, no later than five business days after the evaluation is performed.

The bill also would provide that when a patient self-

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

refers to a physical therapist, the physical therapist is required, prior to commencing treatment, to provide written notice to the patient that a physical therapy diagnosis is not a medical diagnosis by a physician. The bill also would provide that new provisions of law created by the bill are not to be construed to prevent a hospital or ambulatory surgical center from requiring a physician order or referral for physical therapy services for a patient currently being treated in such facility.

Under the bill, physical therapists would be authorized to perform wound debridement services only after approval by a person licensed to practice medicine and surgery or other licensed health care practitioner in appropriately related cases.

The bill would delete requirements in the current law that limit physical therapists to evaluation of patients without a physician referral and the conditions and time frame specified for permitted evaluation and treatment without referral. Under the existing law, physical therapists are permitted to initiate treatment only after approval by a licensed physician, a licensed podiatrist, a licensed physician assistant or a licensed advanced practice registered nurse working pursuant to the order or direction of a licensed physician, a licensed chiropractor, a licensed dentist or licensed optometrist in appropriately related cases. The bill also would delete provisions authorizing physical therapists to initiate treatment under the approval of a healing arts practitioner licensed by another state.

The bill would define the term “licensed health care practitioner” to mean “a person licensed to practice medicine and surgery, a licensed podiatrist, a licensed physician assistant or a licensed advanced practice registered nurse working pursuant to the order or direction of a person licensed to practice medicine and surgery, a licensed chiropractor, a licensed dentist or licensed optometrist in appropriately related cases.”

## **Background**

The bill was introduced at the request of the Kansas Physical Therapy Association (KPTA), whose legislative counsel indicated the bill would permit Kansas citizens to access the services of a licensed physical therapist for treatment of muscular and skeletal issues without having to incur the additional costs of first seeking treatment from and receiving referral from certain health care providers. The representative noted unrestricted patient self-referral currently is permitted in 17 states and patient self-referral with some minor restrictions is allowed in an additional 20 states. Another KPTA representative indicated patients should be given the choice of where to receive their care, choosing when to see a physical therapist. Proponents of the bill included four KPTA representatives. A representative of the Kansas Medical Society offered neutral testimony, indicating the Society's preference is to retain the referral system that is currently in place today.

Representatives of the Kansas Association of Osteopathic Medicine (KAOM), the Kansas Orthopedic Society, and the Kansas Chiropractic Association and a practice administrator for an orthopedic clinic provided testimony in opposition to the bill at the Senate Committee hearing. The KAOM representative testified its members concluded the bill would disrupt continuity of care, eliminate important safeguards, and possibly delay treatment. The KAOM representative submitted an amendment to change a reference from therapy diagnosis to therapy evaluation. The representative of the Orthopedic Society indicated the bill would cause overlap in diagnosis and treatment between physicians and physical therapists, resulting in competition for patients and little collaboration of care for a patient.

The Senate Committee on Public Health and Welfare amended the bill to clarify the time frame specified for obtaining a referral from a licensed health care practitioner in instances where a self-referred patient does not progress toward documented treatment goals.

The fiscal note prepared by the Division of the Budget on the original bill states the Board of Healing Arts indicates the bill could cause an increase in the number of complaints or corresponding investigations that would need to be performed by Board staff. The number of disciplinary cases handled by the Board also could increase, the fiscal note states, if medical diagnoses are delayed or missed. An increase in the number of investigations and disciplinary cases assigned to and performed by the Board also would increase related operational expenses such as travel, records duplication costs, court reporter costs, transcription fees, and expert witness fees. The Board, however, is unable (at the time of publication of the fiscal note) to estimate the amount of the increase in expenditures from the Board of Healing Arts Fee Fund. Any fiscal effect associated with the bill is not reflected in *The FY 2014 Governor's Budget Report*.