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BILL ANALYSIS

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Senate Bill 668 (Substitute S-2 as passed by the Senate)  
Sponsor: Senator Kevin Hertel  
Committee: Health Policy

Date Completed: 11-13-24

### **INTRODUCTION**

The bill would expand the legal scope of practice of physical therapy and delete limitations on the length of time and specified purposes that a physical therapist could practice on a patient who did not have a referral; however, the bill would require a physical therapist to refer a patient to an appropriate healthcare professional if the patient did not show reasonable response to treatment within 60 days of initiating physical therapy care or if other health complications occurred during treatment. A physical therapist also would have to inform a healthcare professional of the plan for care if the patient initially identified a primary health care professional. Additionally, the bill would require a physical therapist who was treating a patient without a referral from a health care professional to inform the patient of the patient's potential financial liability for receiving physical therapy services without the referral.

The bill would take effect 180 days after enactment.

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

### **BRIEF RATIONALE**

Removing the requirement for physical therapy patients to receive a referral to access care would improve patient outcomes in Michigan. According to testimony, Michigan's current restrictions on direct access to physical therapy are among the most restrictive in the country, and there is no evidence that requiring referrals helps increase patient safety. The bill should be passed to allow Michigan residents to access care directly from a physical therapist.

MCL 333.17801 et al.

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## CONTENT

The bill would amend Part 178 (Physical Therapy) of the Public Health Code to do the following:

- **Modify the scope of the practice of physical therapy to include examining, evaluating, and testing an individual with a mechanical, physiological, or developmental impairment, a functional limitation, or a disability or other health movement-related condition to determine the cause of the physical therapy problem to be treated.**
- **Specify that the practice of physical therapy would not include the practices of specific medicine governed by the Code or diagnosis of a health condition if the diagnosis fell outside the scope of practice of physical therapy.**
- **Delete language limiting the length of time and purposes that a physical therapist may practice on a patient who does not have a prescription from another medical professional.**
- **Require a physical therapist to refer a patient to a healthcare professional if the patient did not show reasonable response to treatment within 60 days of initiating care or if other health complications occurred during treatment.**
- **Require a physical therapist to inform a healthcare professional of the plan for care if the patient initially identified a primary health care professional.**
- **Specify that a third-party payer could require a member or enrollee to fulfill benefits requirements for physical therapy services, including a medical differential diagnosis to demonstrate medical necessity and preapproval.**
- **Require a physical therapist who treated a patient without a referral to inform the patient of the potential financial liability for receiving physical therapy services without a referral.**

### Scope of the Practice of Physical Therapy

Currently, "practice of physical therapy" means the evaluation of, education of, consultation with, or treatment of an individual by the employment of effective properties of physical measures and the use of therapeutic exercises and rehabilitative procedures, with or without assistive devices, for the purpose of preventing, correcting, or alleviating a physical or mental disability. The term includes treatment planning, performance of tests and measurements, interpretation of referrals, initiation of referrals, instruction, consultative services, and supervision of personnel.

Instead, under the bill, "practice of physical therapy" would mean evaluating, educating, consulting with, or treating an individual by employing effective properties of physical measures and using therapeutic exercises and rehabilitative procedures, with or without assistive devices, to prevent, correct, or alleviate a physical or mental disability. Physical therapy would include examining, evaluating, and testing an individual with a mechanical, physiological, or developmental impairment, a functional limitation, or a disability or other health and movement-related condition to determine a cause of the physical therapy problem to be treated and a prognosis and plan for intervention; treatment planning; the performance of tests and measurements; the interpretation of referrals; the initiation of referrals; instruction; consultative services; and the supervision of personnel.

Currently, "practice of physical therapy" does not include the identification of underlying medical problems or etiologies, establishment of medical diagnoses, or the prescribing of treatment. Instead, under the bill, the term would not include any of the following:

- The practice of medicine.
- The practice of osteopathic medicine and surgery.

- The practice of podiatric medicine and podiatric surgery.
- Medical diagnosis or the diagnosis of a health condition, if the diagnosis fell outside the scope of practice of physical therapy.

#### Delete Requirement for a Referral

The Code requires a physical therapist or physical therapist assistant to engage in the treatment of a patient if that treatment is prescribed by a health care professional who is an advanced practice registered nurse, who holds a license issued under Part 166 (Dentistry), 170 (Medicine), 175 (Osteopathic Medicine and Surgery), or 180 (Podiatric Medicine and Surgery), or who holds an equivalent license issued by another state. A physical therapist or a physical therapist assistant may engage in the treatment of a patient without such a prescription under either of the following circumstances:

- For 21 days or 10 treatments, whichever first occurs; however, a physical therapist must determine that the patient's condition requires physical therapy before delegating physical therapy interventions to a physical therapist assistant.
- The patient is seeking physical therapy services for the purpose of preventing injury or promoting fitness.

The bill would delete these provisions.

#### Standards for Having No Referral to a Physical Therapist

Currently, a physical therapist who is treating a patient without a referral from a health care professional must consult with an appropriate health care professional if the patient does not show reasonable response to treatment in a time period consistent with the standards of practice as determined by the Board.

Under the bill, if a physical therapist were treating a patient without a referral from a health care professional, the physical therapist would have to consult with one of the following if the patient did not improve within 60 days after initiating treatment or in a time period consistent with generally accepted standards for the practice of physical therapy, whichever was first:

- If the patient identified a health care professional as the patient's primary health care professional, the patient's primary health care professional.
- If the patient did not identify a health care professional as the patient's primary health care professional, a health care professional who the physical therapist considered appropriate.

Additionally, under the bill, if a physical therapist were treating a patient without a referral from a health care professional and the patient identified a healthcare professional as the patient's primary health care professional, the physical therapist would have to inform the patient's primary health care professional of the initial evaluation and plan of care for physical therapy services for the patient within 15 days after initiating treatment.

#### Mandatory Notification of Financial Liability for Services Without a Referral

Under the bill, a physical therapist who was treating a patient without a referral from a health care professional would have to inform the patient of the patient's potential financial liability for receiving physical therapy services without the referral.

#### Standards for Having a Referral to a Physical Therapist

Currently, if a physical therapist is treating a patient on the receipt of referral from a health

care professional, the physical therapist must consult with the health care professional who made the referral for treatment if the patient does not show reasonable response to treatment in a time period consistent with the standards of practice as determined by the Board.

The bill would modify this provision to replace "the standards of practice as determined by the Board" with "generally accepted standards for the practice of physical therapy".

#### Updates for a Health Care Professional

Under the bill, a physical therapist who was treating a patient would have to consult with the health care professional who referred the patient for treatment, who the patient identified as the patient's primary health care professional, or, if the patient did not identify a primary health care professional, who the physical therapist considered appropriate, as soon as possible but not later than five days after identifying any of the following:

- A measurable decline in the patient's condition that required a significant change to the patient's plan of care.
- An exacerbation or progression of the patient's symptoms despite adherence to the patient's plan of care.
- A significant complication that was not present when the initial evaluation occurred and the plan of care was initially drafted for the patient.

#### Replace Advanced Practice Registered Nurse with Health Care Professional

Currently, Part 178 does not prohibit a hospital, as a condition of employment or the granting of staff privileges, from requiring that a physical therapist perform activities within the physical therapist's scope of practice in the hospital if that treatment is prescribed by an individual who is an advanced practice registered nurse, or who holds a license issued under Parts 166, 170, 175, or 180, or an equivalent license issued by another state.

Instead, under the bill, Part 178 would not prohibit a hospital from requiring a physical therapist to perform activities in within the therapist's scope if prescribed by a health care professional. The bill would define "health care professional" as an individual who is a registered professional nurse who has been granted a specialty certification one of the fields of either nurse midwifery, nurse practitioner, or clinical nurse specialist, or who holds a license issued under Parts 166, 170, 175, or 180, or an equivalent license issued by another state.

#### Changes to Third-Party Reimbursement

The Code specifies that Part 178 does not require new or additional third-party reimbursement or mandated worker's compensation benefits for physical therapy services and does not preclude a third-party payer from requiring a member or enrollee to fulfill benefit requirements for physical therapy services, including prescription, referral, or preapproval when services are rendered by an individual licensed or otherwise authorized under Part 178. The bill would add a medical differential diagnosis to demonstrate medical necessity to the list of benefit requirements for physical therapy services.

#### Expansion of Restrictions on Words, Titles, or Letters

Currently, the following words, titles, or letters or a combination such, with or without qualifying words or phrases, are restricted in use only to those individuals authorized to use the terms: "physical therapy", "physical therapist", "doctor of physiotherapy", "doctor of physical therapy", "physiotherapist", "physiotherapy", "registered physical therapist", "licensed physical therapist", "physical therapy technician", "physical therapist assistant",

"physical therapy assistant", "physiotherapist assistant", "physiotherapy assistant", "p.t. assistant", "p.t.", "r.p.t.", "l.p.t.", "c.p.t.", "d.p.t.", "m.p.t.", "p.t.a.", "registered p.t.a.", "licensed p.t.a.", "certified p.t.a.", "c.p.t.a.", "l.p.t.a.", "r.p.t.a.", and "p.t.t.". The bill would include any similar words, titles, or letters that indicated that an individual was licensed under Part 178.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.