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SENATE BILL NO. 1305

Senate Amendments in [] — January 29, 2007

A *BILL to amend and reenact § 54.1-3482 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-3482.1, relating to direct access to physical therapists.*

Patron Prior to Engrossment—Senator Newman

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3482 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-3482.1 as follows:

§ 54.1-3482. Certain experience and referrals required; unlawful to practice physical therapist assistance except under the direction and control of a licensed physical therapist.

A. It shall be unlawful for a person to engage in the practice of physical therapy except as a licensed physical therapist, upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as authorized in his practice protocol, or a licensed physician assistant acting under the supervision of a licensed physician, except as provided in this section.

B. After completing a three-year period of active practice upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as authorized in his practice protocol, or a licensed physician assistant acting under the supervision of a licensed physician, a physical therapist who has obtained a certificate of authorization pursuant to § 54.1-3482.1 may evaluate and treat a patient for no more than 14 consecutive calendar business days after evaluation without a referral under the following conditions: (i) the patient has previously been referred to at the time of presentation to a physical therapist for physical therapy services is not being [currently] cared for, as attested to in writing by the patient, by a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as authorized in his practice protocol, or a licensed physician assistant acting under the supervision of a licensed physician for the symptoms giving rise to the presentation; (ii) the patient's referral for physical therapy was made within two years from the date the physical therapist implements a program of physical therapy treatment without referral and direction; (iii) the physical therapy being provided to the patient without referral and direction is for the same injury, disease or condition as indicated in the referral of the licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, or licensed physician assistant acting under the supervision of a licensed physician; (ii) the patient identifies a practitioner from whom the patient intends to seek treatment if the condition for which he is seeking treatment does not improve after evaluation and treatment by the physical therapist during the 14 day period of treatment; (iii) the patient gives written consent for the physical therapist to release all [relevant] personal health information and treatment records to the identified practitioner; and (iv) the physical therapist notifies the practitioner identified by the patient no later than three days after treatment commences and provides the practitioner with a copy of the initial evaluation along with a copy of the patient history obtained by the physical therapist. Evaluation and treatment may not be initiated by a physical therapist if the patient does not identify a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as authorized in his practice protocol, or a licensed physician assistant acting under the supervision of a licensed physician to manage the patient's condition. Treatment for more than 14 consecutive calendar business days after evaluation of such patient shall only be upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as authorized in his practice protocol, or a licensed physician assistant acting under the supervision of a licensed physician. A physical therapist may contact the practitioner identified by the patient at the end of the 14-day period to determine if the practitioner will authorize additional physical therapy services until such time as the patient can be seen by the practitioner. A physical therapist shall not perform an initial evaluation of a patient under this subsection if the physical therapist has performed an initial evaluation of the patient under this subsection within the immediately preceding three months. For the purposes of this subsection, business days means Monday through Friday of each week excluding state holidays.

C. In addition, after completing a three-year period of active practice upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as authorized in his practice protocol, or a licensed physician assistant acting under the supervision of a licensed physician, a physical therapist may conduct a one-time evaluation, that does

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not include treatment, of a patient who does not meet the conditions established in (i) through (iv) of subsection B without the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as authorized in his practice protocol, or a licensed physician assistant acting under the supervision of a licensed physician; if appropriate, the physical therapist shall immediately refer such patient to the appropriate practitioner.

ED. Invasive procedures within the scope of practice of physical therapy shall at all times be performed only under the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as authorized in his practice protocol, or a licensed physician assistant acting under the supervision of a licensed physician.

DE. It shall be unlawful for any licensed physical therapist to fail to immediately refer any patient to a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, or a licensed nurse practitioner as authorized in his practice protocol, whose medical condition is determined, at the time of evaluation or treatment, to be beyond the physical therapist's scope of practice. Upon determining that the patient's medical condition is beyond the scope of practice of a physical therapist, a physical therapist shall immediately refer such patient to an appropriate practitioner.

EF. Any person licensed as a physical therapist assistant shall perform his duties only under the direction and control of a licensed physical therapist.

EG. However, a licensed physical therapist may provide, without referral or supervision, physical therapy services to (i) a student athlete participating in a school-sponsored athletic activity while such student is at such activity in a public, private, or religious elementary, middle or high school, or public or private institution of higher education when such services are rendered by a licensed physical therapist who is certified as an athletic trainer by the National Athletic Trainers' Association Board of Certification or as a sports certified specialist by the American Board of Physical Therapy Specialties; (ii) employees solely for the purpose of evaluation and consultation related to workplace ergonomics; (iii) special education students who, by virtue of their individualized education plans (IEPs), need physical therapy services to fulfill the provisions of their IEPs; (iv) the public for the purpose of wellness, fitness, and health screenings; (v) the public for the purpose of health promotion and education; and (vi) the public for the purpose of prevention of impairments, functional limitations, and disabilities.

§ 54.1-3482.1. *Certain certification required.*

A. The Board shall promulgate regulations establishing criteria for certification of physical therapists to provide certain physical therapy services pursuant to subsection B of § 54.1-3482, without referral from a licensed doctor of medicine, osteopathy, chiropractic, podiatry, dental surgery, licensed nurse practitioner as authorized in his practice protocol, or a licensed physician assistant acting under the supervision of a licensed physician. The regulations shall include but not be limited to provisions for (i) the promotion of patient safety; (ii) an application process for certification to perform such procedures; (iii) minimum education, training, and experience requirements for certification to perform such procedures; and (iv) continuing education requirements relating to carrying out direct access duties under § 54.1-3482.

B. The minimum education, training, and experience requirements for certification shall include evidence that the applicant has successfully completed (i) a doctor of physical therapy program approved by the American Physical Therapy Association; (ii) a transitional program in physical therapy as recognized by the Board; or (iii) at least three years of active practice with evidence of continuing education relating to carrying [~~out~~] direct access duties under § 54.1-3482.

C. In promulgating minimum education, training, and experience criteria, the Board shall consult with an advisory committee comprised of three members selected by the Medical Society of Virginia and three members selected by the Virginia Physical Therapy Association. All members of the advisory committee shall be licensed by the Board of Physical Therapy or the Board of Medicine and shall engage in clinical practice. The committee shall have a duty to act collaboratively and in good faith to recommend the education, training, and experience necessary to promote patient safety. The advisory committee shall prepare a written report of its recommendations and shall submit this report to the Board of Physical Therapy and shall also submit its recommendations to the Board of Medicine for such comments as may be deemed appropriate, prior to the promulgation of draft regulations. The advisory committee may meet periodically to advise the Board on the regulation of such procedures.

D. In promulgating the regulations required by this section, the Board shall take due consideration of the education, training, and experience requirements adopted by the American Physical Therapy Association and the American Medical Association.

2. That the Board shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

3. [That an emergency exists and the provisions of this act providing for the new § 54.1-3482.1 shall be effective upon passage.

4.] That the provisions of this act amending § 54.1-3482 shall become effective [90 180] days

121 after the effective date of the regulations promulgated under § 54.1-3482.1

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