

2003-04 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

Senate Committee on
Health, Children,
Families, Aging and
Long Term Care
(SC-HCFALTC)

Sample:

Record of Comm. Proceedings ... RCP

- 03hrAC-EdR_RCP_pt01a
- 03hrAC-EdR_RCP_pt01b
- 03hrAC-EdR_RCP_pt02

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

➤ **

➤ Committee Hearings ... CH

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Hearing Records ... HR

➤ 03hr_sb04706

➤ Miscellaneous ... Misc

➤ **

➤ Record of Comm. Proceedings ... RCP

➤ **

TO: Speaker John Gard

FR: The Wisconsin Physical Therapy Association
Ron Hermes – Lobbyist

DATE: February 2, 2004

RE: remedial legislation to fix a problem with 2001 Act 70 (2001 AB 615)

It was brought to our attention by the Department of Regulation and Licensing General Counsel, that an unintended consequence occurred when we removed 448.56(6) from the bill. There is an urgency to fixing this problem before the end of session because the new Physical Therapy practice act changes created in 2001 Act 70 go into effect on April 1. It is the Department's opinion that the PTACB's authority to regulate assistants will be compromised if there is not remedial legislation to fix this oversight.

Current law, prior to assistant licensure, clearly states what an assistant does and directs the PTACB to promulgate rules of supervision. Current law:

448.52(3) A physical therapist assistant assisting a physical therapist in practice under the general supervision of the physical therapist. In this subsection, "physical therapist assistant" means an individual who has graduated from a physical therapist assistant associate degree program approved by the American Physical Therapy Association. The affiliated credentialing board shall promulgate rules defining "general supervision" for purposes of this subsection.

Current law was repealed and new similar language was created under AB 615, to reflect the assistant license requirement. Original AB 615 language:

448.56 (6) PHYSICAL THERAPIST ASSISTANTS. A physical therapist assistant may assist in the practice of physical therapy only under the direct or general supervision of a physical therapist. The affiliated credentialing board shall promulgate rules defining "direct or general supervision" for purposes of this subsection.

You may recall, that the WI Medical Society objected to the language because they believed it would interfere with a physician's ability to delegate to a physical therapist assistant. We disagreed, but in an effort to move the bill, we agreed to delete the following section. Unfortunately, this created two unintended consequences.

First, it eliminates the direct authority, under current law, of the Physical Therapy Affiliated Credentialing Board (PTACB) to promulgate rules regulating physical therapist assistants. Second, it eliminates any reference in statutes that describes what an assistant does.

Mark Kunkel, the LRB drafter of AB 615, agrees that removing this section in its entirety was an oversight.

I have spoken with Mark Grapentine at the WI Medical Society and the WMS also understands the unintended consequences created by repealing the section. The WMS and the WPTA have agreed on the following language as an acceptable compromise.

I hope that you will agree that this issue needs to be addressed now and will introduce the remedial legislation to fix the unintended consequences of 2001 Act 70.

Remedial language:

448.56(6) PHYSICAL THERAPIST ASSISTANTS. *Physical Therapist Assistants assist in the practice of physical therapy, under direct or general supervision, by providing therapeutic interventions after a diagnosis, prognosis and plan of therapeutic intervention have been developed by a physical therapist. The affiliated credentialing board shall promulgate rules defining direct or general supervision for the purposes of this subsection. Nothing in this paragraph interferes with delegation authority under chapter 448.*

Halbur, Jennifer

From: Ron Hermes [ron@tenuta-
Sent: Monday, February 02, 2004 5:03 PM
To: Jennifer Halbur
Subject: PT letter

Hi Jennifer-

Attached is the letter to Speaker Gard regarding the PT issue I spoke to you about. It would be great if Carol would introduce a companion to this Assembly bill. Please contact me if you have any questions.

Ron

Carol -

Let me know if you are interested in this.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4229/1dn
MDK:jld:pg

February 10, 2004

PT Assist
bill -
Saw to
Ron 2/10.

Sen. Roessler:

This is the Senate companion bill to LRB-4208/1.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

2003 BILL

1 AN ACT *to create* 448.56 (6) of the statutes; **relating to:** the practice of physical
2 therapist assistants and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law that is effective April 1, 2004, a person may not use the title “physical therapist assistant” unless he or she has a license as a physical therapist assistant that is granted by the Physical Therapists Affiliated Credentialing Board (board). Current law does not specify what a licensed physical therapist assistant is allowed, or not allowed, to do.

This bill specifies that a person who is licensed as a physical therapist assistant may assist in the practice of physical therapy with respect to a patient only under the direct or general supervision of a physical therapist who is licensed by the board. The bill requires the board to promulgate rules that define what constitutes direct or general supervision. In addition, the physical therapist must have developed a diagnosis, prognosis, and plan of therapeutic intervention for the patient.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 448.56 (6) of the statutes is created to read:

Halbur, Jennifer

From: Ron Hermes [ron@tenuta-hermes.com]
Sent: Wednesday, February 11, 2004 8:59 AM
To: Mark Kunkel
Cc: Jennifer Halbur; randy.thorson@legis.state.wi.us
randy.thorson@legis.state.wi.us
Subject: PTA bill draft

Hi Mark-

I think there must have been some confusion as to what language was suppose to be used for the physical therapy assistant "fix" bill, to be introduced by Rep. Underheim and Sen. Roessler. Rep. Underheim has given me permission to work directly with you on this bill.

The language that the WPTA and WI Medical Society has agreed to is below. Also, I was wondering if it would be possible to include in your note mention of why this bill is necessary. Something to the effect of ...2001 Act 70, inadvertently repealed the PTACB's direct authority to regulate supervision of PTAs and what a PTA does.

It is important to note that in the new language we do not use the word "only." The Medical Society strongly objects to this point. If you would like further clarification on this point, please feel free to call me. 255-5522

Proposed language:

448.56(6) PHYSICAL THERAPIST ASSISTANTS. *Physical Therapist Assistants assist in the practice of physical therapy, under direct or general supervision, by providing therapeutic interventions after a diagnosis, prognosis and plan of therapeutic intervention have been developed by a physical therapist. The affiliated credentialing board shall promulgate rules defining direct or general supervision for the purposes of this subsection. Nothing in this paragraph interferes with delegation authority under chapter 448.*

TO: Chairwoman Roessler and members of the Senate Committee on Health,
Children, Families, Aging and Long Term Care

FR: Michele Thorman – President
The Wisconsin Physical Therapy Association
Ron Hermes – Lobbyist

DATE: February 16, 2004

RE: LRB 4208/2 related to physical therapist assistants

This memo is a brief explanation as to the reason the WPTA has requested the introduction of the bill relating to physical therapist assistants.

You may recall that during the 2001-02 legislative cycle the WPTA passed legislation revising the physical therapist practice act. The bill was 2001 AB 615 and enacted as 2001 Act 70. One of the provisions included in the bill was the licensure of physical therapist assistants. The Roessler/Underheim bill addresses an issue that was omitted in 2001 Act 70. Because the provisions included in 2001 Act 70 take effect on April 1, 2004, it is necessary to fix the problem before the end of the 2003-04 legislative session.

Background

Under current law, 448.52(3), (page 10 of ch. 448) describes the duties of a physical therapist assistant (PTA) and gives the Physical Therapy Affiliated Credentialing Board (PTACB) the direct authority to promulgate rules regulating the supervision of PTAs.

As mentioned above, 2001 AB 615 created a license for PTAs so it became necessary to repeal 448.52(3) and recreate the paragraph to acknowledge the license. Under AB 615, the new language read:

448.56 (6) PHYSICAL THERAPIST ASSISTANTS. A physical therapist assistant may assist in the practice of physical therapy only under the direct or general supervision of a physical therapist. The affiliated credentialing board shall promulgate rules defining “direct or general supervision” for purposes of this subsection.

However, the Wisconsin Medical Society (WMS), objected to part of this paragraph because their general counsel interpreted it to read that physicians would no longer be able to delegate certain duties to PTAs working in their clinics. We did not agree with this interpretation, but in our desire to work with groups opposed to the bill, we agreed to remove the provision from the bill.

The Problem

By repealing chp. 448.52(3) in current law and removing its rewrite, chp. 448.56(6), under 2001 AB 615, we eliminated any reference to the PTACB's direct authority to regulate the supervision of PTAs and eliminated any reference to what licensed PTAs do.

Unfortunately, this problem was not noticed until very recently by the Department of Regulation and Licensing (DRL). The DRL believes that without a legislative "fix," the PTACB will be limited in its ability to properly regulate PTAs. We concur with the DRL assessment of the problem.

The Solution

The WPTA has negotiated the following compromise language with the WMS that satisfies their concerns and addresses the issues raised by DRL.

448.56(6) Physical Therapist Assistants. A physical therapist assistant may assist a physical therapist in the practice of physical therapy if the physical therapist provides direct or general supervision of the physical therapist assistant. The affiliated credentialing board shall promulgate rules defining direct or general supervision for purposes of this subsection. Nothing in this subsection interferes with delegation authority under any other provision of this chapter.

Please feel free to contact me if you have any questions.

Halbur, Jennifer

From: Ron Hermes [ron@tenuta-
Sent: Monday, February 16, 2004 8:59 AM
To: Halbur, Jennifer
Subject: Re: PT bill

Jennifer, I have been working on revised language with Mark Kunkel. He had some concerns with our original language. I have just received sign-off from the WMS and my client on the new language. Mark should hopefully have it to you before the end of the day.

Ron

----- Original Message -----

From: Halbur, Jennifer
To: 'Ron Hermes'
Sent: Friday, February 13, 2004 9:09 PM
Subject: RE: PT bill

Ron,

I have not recieved anything from Mark Kunkel. I will follow up with him on Monday.
 Thanks,
 Jennifer

-----Original Message-----

From: Ron Hermes [mailto:ron@tenuta-hermes.com]
Sent: Wednesday, February 11, 2004 10:59 AM
To: Randy Thorson; Jennifer Halbur
Cc: Mark Grapentine
Subject: PT bill

Hi Jennifer and Randy-

I spoke with Mark Kunkel regarding the first draft he prepared on the PTA bill. He understands the intent of what we are trying to do, but thinks it needs to be slightly reworded. He said that he should have a redraft finished by the end of the day tomorrow (Thursday.) Once I receive it, I will forward it to Mark Grapentine to make sure that the WMS is okay with the rewording of the bill. I will also have to do the same with my client. I hope that by the end of the day on Friday, we will have this figured out.

Let me know if you have any questions.

Ron

*Now
 waiting for [unclear]*

**SENATE COMMITTEE ON HEALTH, CHILDREN,
FAMILIES, AGING AND LONG TERM CARE**

SENATE BILL 470

- SB 470 IS NEEDED TO ENSURE THAT THE PHYSICAL THERAPY AFFILIATED CREDENTIALING BOARD WILL HAVE THE AUTHORITY TO PROPERLY REGULATE PHYSICAL THERAPIST ASSISTANTS AFTER 2001 ACT 70 TAKES EFFECT (APRIL 1, 2004).
- ACT 70 REVISES THE PHYSICAL THERAPIST PRACTICE ACT. REFERENCES TO THE PHYSICAL THERAPIST CREDENTIALING BOARD'S DIRECT AUTHORITY TO REGULATE THE SUPERVISION OF PHYSICAL THERAPIST ASSISTANTS WAS INADVERTENTLY ELIMINATED.
- SENATE BILL 70 RESTORES THE BOARD'S AUTHORITY TO REGULATED PT ASSISTANTS.

2-19-04
Public
Hearings

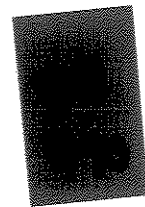
SENATE BILL 470

Relating to the practice of physical therapist assistants.

(Executive Action)

- SB 470 IS NEEDED TO ENSURE THAT THE PHYSICAL THERAPY AFFILIATED CREDENTIALING BOARD WILL HAVE THE AUTHORITY TO PROPERLY REGULATE PHYSICAL THERAPIST ASSISTANTS AFTER 2001 ACT 70 TAKES EFFECT (APRIL 1, 2004).
- ACT 70 REVISES THE PHYSICAL THERAPIST PRACTICE ACT. REFERENCES TO THE PHYSICAL THERAPIST CREDENTIALING BOARD'S DIRECT AUTHORITY TO REGULATE THE SUPERVISION OF PHYSICAL THERAPIST ASSISTANTS WAS INADVERTENTLY ELIMINATED.

SENATE BILL 70 RESTORES THE BOARD'S AUTHORITY TO REGULATED PT ASSISTANTS.



2-19-04
Hearing

~~SB 470~~

SB 470

- CR testified - bill needed to ensure Credentialing board has authority over PR Assistants.

Ren Holmes

↓

Supports

+ Mark Grentine

↓

Med-Soc. Does not oppose. Agrees
the lang. is necessary.

Tom Ryan

- Drafting oversight. Now we need bill.
- DR L Supports
- Requests switch action

Senate Bill 470...relating to the practice of physical therapist assistants and granting rule-making authority.

<p>BILL SPONSORS</p>	<p>Introduced by Senator Roessler. Cosponsored by Representative Underheim.</p>
<p>BILL HISTORY</p>	<p>Senate Bill 470 was introduced and referred to the Senate Committee on Health, Children, Families, Aging and Long Term Care on February 17, 2004.</p> <p>A public hearing was held on February 19, 2004. An executive session was held on February 25, 2004.</p> <p>The Committee recommended passage of SB 470 on a vote of 9-0.</p>
<p>LRB ANALYSIS</p>	<p><u>Current:</u> Under current law that is effective April 1, 2004, a person may not use the title "physical therapist assistant" unless he or she has a license as a physical therapist assistant that is granted by the Physical Therapists Affiliated Credentialing Board (board). Current law does not specify what a licensed physical therapist assistant is allowed, or not allowed, to do.</p> <p><u>Proposed Changes:</u> This bill specifies that a person who is licensed as a physical therapist assistant may assist a physical therapist licensed by the board in the practice of physical therapy if the physical therapist provides direct or general supervision of the physical therapist assistant. The bill requires the board to promulgate rules that define what constitutes direct or general supervision. In addition, the bill's provisions do not interfere with certain other delegations to physical therapist assistants, such as delegations by physicians.</p> <p><u>Major Impact:</u> SB 470 requires the Physical Therapist Affiliated Credentialing Board to define "direct or general supervision" of Physical Therapy Assistants by Physical Therapists by rule.</p>
<p>FISCAL EFFECT</p>	<p>The Department of Regulation and Licensing: \$1, 470 increase in costs. The Department indicates that is can absorb these costs within the agency's budget.</p>
<p>SUPPORT</p>	<p>The following people appeared in favor of this bill: (1) Ron Hermes, Wisconsin Physical Therapy Association; (2) Tom Ryan, Department of Regulation and Licensing; and (3) Senator Carol Roessler, 18th Senate District.</p>
<p>OPPOSITION</p>	<p>No one appeared or registered in favor of this bill.</p>
<p>CONTACT</p>	<p>Jennifer Halbur, Senator Carol Roessler, 266-5300</p>
<p>DATE</p>	<p>March 3, 2004</p>